

# EXHIBIT A

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ELSA FLORES DIAZ and )  
EDWIN MEDRANO CACERES, for )  
themselves and on behalf of )  
their minor children E.M.F., )  
V.M.F., B.M.F., and H.M.F., )  
Plaintiffs, )  
vs. ) No. 1:21-cv-03661-ELR  
THE PARTNERSHIP, INC., )  
Defendant. )

\*\*\*\*\*  
ORAL DEPOSITION OF  
BRUCE JACOBS  
AUGUST 11, 2022  
\*\*\*\*\*

On the 11th day of August, 2022, at 9:05 a.m.,  
the oral deposition of the above-named witness was  
taken at the instance of the Plaintiffs, before  
Michelle L. Munroe, Certified Shorthand Reporter in  
and for the State of Texas, at Regus, 825 Watters  
Creek Boulevard, Suite 250, Allen, Texas, pursuant to  
Notice and the agreement hereinafter set forth.

A P P E A R A N C E S

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BRUCE JACOBS

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## P R O C E E D I N G S

BRUCE JACOBS,

having been first duly sworn, testified as follows:

## EXAMINATION

BY MR. BLOCK:

Q. Good morning, Dr. Jacobs. My name is Aaron Block and I represent the plaintiffs. And unless you tell me differently, I think we can dispense with the usual ground rules because you have had your deposition taken a number of times. Is that fair?

A. Yes.

Q. The one, I guess, pointer I would make is -- has to do with nomenclature. We refer to the plaintiffs as the Diaz family, and I think internally the defense, at least some of the time, refers to them as the Caceres family. And can we just agree we're talking about the same people whether it's Diaz or Caceres?

A. Sure.

Q. Okay. I'll almost exclusively if not exclusively say Diaz. I just wanted to get that out of the way.

Dr. Jacobs, the other actually pointer would be sometimes on depositions, court reporters

1 tell me that I speak a little too quickly. If I  
2 speak too quickly for you or, Michelle, if I speak  
3 too quickly for you, just tell me and I will try the  
4 slow down. Okay?

5 A. Sure.

6 Q. Could you tell me Dr. Jacobs what you did  
7 to prepare for your deposition this morning?

8 A. I just reviewed the entirety of the file  
9 and reviewed my report. That's essentially what I  
10 did.

11 Q. And could you tell me, Dr. Jacobs, a  
12 little bit about your biography, your sort of  
13 professional biography. I have obviously read your  
14 CV, but just if you could tell me in your own  
15 English words a little bit about your professional  
16 biography, that would be helpful.

17 A. Sure.

18 I have a bachelor's degree from Duke  
19 University, majored in history; got a master's  
20 degree from University of Toledo, which is my  
21 hometown school, in sociology with a specialization  
22 in criminology; and I got a Ph.D. from the  
23 University of Southern California in sociology,  
24 again with a specialization in criminology.

25 In 1994, I was an assistant professor and

1 associate professor with tenure at University of  
2 Missouri, St. Louis, from, let's see, 1994 to 2003,  
3 department of criminology. I moved to University of  
4 Texas at Dallas in 2003 where I have been a tenured  
5 faculty member since then.

6 I have, you know, published multiple  
7 peer-reviewed articles, books on street crime and  
8 violence. A lot of that is specified in my report.  
9 I have done security analysis of hundreds of  
10 properties around the country, retained or been --  
11 retained or testified in hundreds of cases around  
12 the country in the last 20 years on issues of crime  
13 foreseeability, adequacy of crime prevention  
14 measures, the functional limits of crime prevention,  
15 deterrents, crime pattern analysis and so forth.

16 I guess that's the short and quick of it.

17 Q. Thank you.

18 I was intrigued by your time at UMSL --  
19 which, for Michelle, that's U-M-S-L, which is how  
20 people in St. Louis, where I'm from, refer to the  
21 University of Missouri, St. Louis.

22 And a little bit of a detour, but my  
23 recollection from the late '90s when I was in high  
24 school was that UMSL sort of billed itself as having  
25 a really strong program in criminology and sort

1 of -- I'm using that term kind of loosely -- but  
2 criminal justice as -- you know, when they would do  
3 the, like, fairs to talk about schools, that's  
4 actually -- that is really what stood out about UMSL  
5 is that sort of consistent with your understanding,  
6 it actually is a fairly strong program at UMSL in --  
7 or was, anyway, in criminology?

8 A. Yeah, we were -- we were a top five  
9 criminology department in the country. I think  
10 they're still top five.

11 Q. Yeah. Yeah. That's cool. I hadn't  
12 thought about that in a long time. But, anyway, I  
13 was intrigued to see UMSL on your CV.

14 Have you, Dr. Jacobs, ever had any formal  
15 employment in law enforcement?

16 A. Not formal, no.

17 Q. And have you ever had any formal  
18 employment in providing security?

19 A. In terms of, like, being a security guard,  
20 no.

21 Q. I think I saw in your CV that you have  
22 gone on ride-alongs or otherwise sort of been  
23 embedded, if you will, with law enforcement; is that  
24 right?

25 A. I have done extensive field research over



1 the years with law enforcement; drug busts, search  
2 warrants, undercover buys, saturation patrol, drug  
3 interdiction, gun interdiction, gang member field  
4 interrogations. So I've done all that, but I have  
5 not been a cop, no.

6 Q. Have you ever worked with any police  
7 departments on crime prevention?

8 A. How do you mean?

9 Q. Well, it sounds like you're telling me  
10 that your field work was sort of, you know, active;  
11 riding along in the car, if you will, and going out  
12 on operations.

13 And I'm wondering if you have ever worked  
14 with law enforcement on the front end on things,  
15 like, identifying patterns of crime or hot spots or  
16 allocating police resources to prevent crime in the  
17 first instance.

18 A. I have done that with private properties  
19 and organizations but not with police departments.  
20 I have done it based on police data but not for the  
21 police department.

22 Q. And if I were to meet you socially today  
23 and we were just talking and I asked you, hey, what  
24 do you do for a living, how would you describe what  
25 you do for a living?

1           A.    I would tell them I'm a criminologist,  
2   that I teach, do research, and perform professional  
3   service, and then I also provide what I would call  
4   litigation support when I'm called by attorneys to  
5   provide that to assess matters of negligent security  
6   or allegations thereof.

7           Q.    And if you could just estimate for me  
8   these days, how much time do you spend on what I  
9   would think of as your academic pursuits as opposed  
10  to litigation support?

11          A.    I would say on average I spend about one  
12  day a week on litigation support.

13          Q.    And we'll drill down on the litigation  
14  support role.

15                Could you tell me about what you do in the  
16  other four days of the week in your academic  
17  pursuits?

18          A.    Teaching, research, and service; that's  
19  the three prongs of my job.

20          Q.    And is that -- you told me it was about  
21  four days.

22                Is that a full-time position that you hold  
23  with the University of Texas at Dallas?

24          A.    It -- well, it's nine months. I don't  
25  have a summer contract, but it's full-time during

1 the nine months.

2 Q. And some experts I have met in other  
3 fields have -- who are associated with a university  
4 or an academic center have rules that govern whether  
5 professors can serve in an expert role and under  
6 what circumstances and have conflict policies and  
7 sometimes actually even require funding or payment  
8 for expert services to run through the university  
9 and then be dispersed to the expert.

10 That's the predicate for my question which  
11 is: Does the University of Texas at Dallas impose  
12 any kind of rules or policies or restrictions on  
13 your serving as an expert witness in litigation?

14 A. Not in terms of funneling the invoices or  
15 revenue through the university, but I do have formal  
16 written permission from my department chair, from  
17 the dean of the school of social sciences, and the  
18 provost of the university to do the expert work. I  
19 have had that formal written permission, I believe,  
20 since 2005. It's called an authorization for dual  
21 employment form, and so I have already taken care of  
22 all that. So they know -- they know what I'm doing.

23 And also in terms of conflict of interest  
24 policies, if one of the parties was somehow related  
25 to the University of Texas at Dallas or UT system,

1 then I wouldn't take the case. I guess that would  
2 be the answer to that part of the question.

3 Q. And does the university -- well, let me  
4 back up a little bit.

5 You're obviously not here in this case to  
6 speak on behalf of the university, correct?

7 A. Correct.

8 Q. The university doesn't endorse your  
9 serving as an expert in any particular case, does  
10 it?

11 A. Endorse? You mean -- what do you mean by  
12 that?

13 Q. Well, does the university even know that  
14 you're an expert in this Diaz case?

15 A. No, and they would have no reason to know.  
16 But they know that I perform this kind of work. And  
17 it's -- so that's how I would answer that question.

18 Q. Sure. Sure.

19 So the -- could you tell me -- thinking  
20 about the last year or two of school, could you tell  
21 me what you focused on in your teaching  
22 responsibilities?

23 A. Well, I teach victimless crimes in the  
24 fall. Typically it's an undergraduate course. I  
25 teach etiology of crime and criminality, which is a

1 Ph.D. level theory course. I teach drugs and crime,  
2 which is an undergraduate level course. I teach  
3 violent crime, which is a Ph.D. level course,  
4 graduate level course. And then obviously I have  
5 multiple committee memberships, review  
6 responsibilities, journal review responsibilities,  
7 department committee memberships. I do tenure  
8 reviews. I'm a journal reviewer.

9 And then obviously I -- during the course  
10 of the entire year, even when I'm not on my  
11 nine-month contract, I spend a lot of time working  
12 on my publications, my research, and trying to get  
13 my papers published. I obviously have done a lot of  
14 that this summer as well.

15 Q. And how would you describe your research  
16 focus?

17 A. Most of it's qualitative based on  
18 interviews and/or field research with active  
19 offenders. It focuses on offender decision making,  
20 deterrents, rational choice. However, I am now --  
21 over the last couple years, I have been moving a  
22 little bit more into some quantitative research  
23 designs with -- in collaboration with some of my  
24 colleagues.

25 Q. And just so we're all clear, when you say

1 you're moving into more quantitative research, could  
2 you give me a sense of what you mean by that?

3 A. We're currently working on a paper based  
4 on a survey of 70,000 respondents in 30 different  
5 countries that explores crime and victimization risk  
6 among different respondents based on particular sets  
7 of independent variables.

8 And so now on this particular paper we're  
9 working on, we're focusing on the relationship  
10 between honor attitudes and crime and victimization  
11 risk.

12 Q. Interesting.

13 Are there particular types of crime that  
14 your research tends to focus on?

15 A. Yeah, I would say street crime. Street  
16 crime and violence.

17 Q. And what do you mean by "street crime and  
18 violence"?

19 A. Drugs, carjacking, robbery, burglary,  
20 motor vehicle theft, retaliatory assaults, murder,  
21 shooting, stabbings, that sort of stuff.

22 Q. And why would you group those types of  
23 crimes together as street crime or violent crime?

24 A. Because the lion's share happen in urban  
25 neighborhoods high in concentrated disadvantage.

1 Q. Let's talk about your litigation support  
2 work for a little while.

3 Could you tell me how you first got into  
4 litigation support?

5 A. I was referred on a case in St. Louis. It  
6 was actually a carjacking homicide at a Schnucks  
7 parking lot -- S-c-h-n-u-c-k-s -- Schnucks parking  
8 lot grocery store in St. Louis. I was referred on a  
9 case, and that was my first case and that's kind of  
10 how I started.

11 Q. That's a -- that's -- for those of you who  
12 don't know, that's the leading -- but in my view not  
13 the best -- local grocery store in St. Louis.  
14 Definitely the dominant one.

15 Okay. And then can you tell me, you know,  
16 why you obviously continued with litigation support  
17 over the next several decades?

18 A. I wrote an article based on that case --  
19 or actually wrote a couple articles based on that  
20 case. But one in particular ended up being featured  
21 as a cover story on one of the legal magazines, and  
22 I got several -- a lot of calls after that article  
23 appeared in 2004, and it just kind of went from  
24 there, I suppose.

25 Q. And you told me earlier that at least

1 during the school year, it's about one day a week  
2 that you spend on litigation support, but could  
3 you -- and maybe that's true for the whole 12 months  
4 of the year.

5 But could you ballpark for me about how  
6 much of your professional time is spent on  
7 litigation support as opposed to academic or other  
8 pursuits?

9 A. Probably the same answer, on average about  
10 one day a week.

11 Q. And without giving me the numbers, could  
12 you give me a sense of roughly what fraction of your  
13 income annually comes from litigation support as  
14 opposed to academic pursuits?

15 A. I don't track that.

16 Q. Don't you have to track that for tax  
17 purposes?

18 A. I'm not sure what you mean. I report it  
19 all, but I don't track percentages or anything like  
20 that.

21 Q. You have no idea how much money you make  
22 doing litigation support?

23 A. I don't track percentages. I don't -- my  
24 taxes are filled out electronically with a digital  
25 consent form. They are signed and submitted by an



1 accountant, and that's my role in it.

2 Q. Could you ballpark it for me?

3 A. That would be guessing. I'm not going to  
4 guess.

5 Q. Do you testify for both plaintiffs and  
6 defendants in litigation support matters?

7 A. Yes.

8 Q. And understanding that you have been doing  
9 this a long time, I would like to focus on just the  
10 last, you know, three or four years.

11 Could you estimate, if possible, the split  
12 between plaintiff and defendants in litigation  
13 support matters?

14 A. I would say more defense than plaintiff,  
15 but I don't know what the percentage is.

16 Q. What -- what do you do when you're asked  
17 to review a case for possible involvement? Could  
18 you walk me through any process you have that will  
19 allow you to determine whether you want to take on  
20 the retention?

21 A. I first check for conflicts. The next  
22 thing I do is typically speak with the contacting  
23 attorney about the facts. And if I think that  
24 there's no conflict and I would be able to be of  
25 assistance in reviewing the file, then I will send

1 out some sort of engagement agreement.

2 Q. Do you apply the same standards when  
3 you're testifying for plaintiffs as when you're  
4 testifying for defendants?

5 A. Yes.

6 Q. Do you apply the same standards -- well,  
7 I'm going to make -- I'll actually ask you that in a  
8 more specific way in a little bit so just strike  
9 that beginning to a question.

10 I always like to know the answer to this  
11 question. Why -- and I'm not suggesting anything --  
12 but why do you do litigation support?

13 A. Why do I do it? It's interesting, I  
14 suppose. It's an opportunity to bring criminology  
15 to the courtroom. Actually, my university  
16 encourages it because on some level it enhances the  
17 stature of the school when one of its faculty  
18 members is testifying as an expert in court on a  
19 matter of judicial relevance. So those are, I  
20 guess, the main reasons.

21 Q. That's pretty consistent with what I hear  
22 from most experts except in fields where some people  
23 say they believe in sort of imposing discipline on  
24 their professional peers, but that's more of a  
25 malpractice setting.

1 Can you tell me how you connected first  
2 with Mr. Melcher about this case, the counsel for  
3 TPI, the defendant?

4 A. He either emailed or called me about the  
5 case and I believe we talked at that point.

6 Q. Had you ever worked with Mr. Melcher  
7 before?

8 A. Yes.

9 Q. How -- could you just estimate how often  
10 you worked with him before?

11 A. I think there was one prior case in  
12 Tennessee, one prior case that I recall.

13 Q. Had you ever worked with the defendant,  
14 The Partnership, Inc., or TPI before?

15 A. Not that I recall.

16 Q. In response to our subpoena, you wrote us  
17 a Word document in which you said that you do not  
18 retain expert reports or transcripts from your  
19 testimony. Is that true?

20 A. Yes.

21 Q. Do you affirmatively go and delete your  
22 expert reports?

23 A. No, but I'm talking about, like, the  
24 original reports that I sign and scan or that the  
25 counsel has, I don't keep any of that stuff. That's

1 all discarded with the file.

2 Q. Do you keep electronic copies of the  
3 report?

4 A. Not the original copies. I may have draft  
5 versions of earlier copies, but I don't know to what  
6 extent they're the same as the ones I have  
7 submitted.

8 Q. Let me make sure I understand what you  
9 mean by "original copy." Tell me what you delete.

10 A. I didn't say I deleted anything. What I  
11 said was when I write a report and sign it, I  
12 provide that to counsel. I might keep a written  
13 copy in that file, but when the case is over, I  
14 don't keep any of that stuff.

15 Q. Well, I need to be specific or precise  
16 with you here.

17 So when you finish a report and it's  
18 ready, from your expert perspective, to be submitted  
19 to the attorney who has retained you, are you  
20 telling me that you physically go in and sign the  
21 last page or some page with a pen, like a wetting  
22 signature?

23 A. Typically, yes.

24 Q. And then how do you get the final report  
25 and your signature to the attorney who has retained

1 you?

2 A. Well, I'll scan the signature page and  
3 then I'll email the report. But, like I said -- and  
4 I'll keep copies of draft versions of that report  
5 but not the original signed copy of the report. So  
6 I don't know whether to what extent the report would  
7 have changed since the time I submitted it.

8 Q. Well -- okay. I think you just told me  
9 that when you are done with a report and ready to  
10 submit it to the attorney who's retained you, you  
11 email that report to the attorney who's retained  
12 you.

13 Is that what you're telling me?

14 A. Typically, yes.

15 Q. Do you go into your sent items and delete  
16 those emails?

17 A. No, but they don't stay for all that long.  
18 I don't physically delete them -- well, it depends.  
19 If he responds and it goes in my inbox, then, yeah,  
20 I'll put it in the trash. If it's just a sent  
21 email, then it probably would stay in the email but  
22 not for that long. I don't have that much space on  
23 the Gmail account.

24 Q. Do you have -- do you pay Google for extra  
25 storage space on your Gmail account?

1 A. No.

2 Q. So as far as you know, you have the  
3 standard storage that Google provides to everybody  
4 who signs up for free Gmail account?

5 A. Correct.

6 Q. And it would be possible for you to go  
7 into your sent items in your Gmail account and see  
8 if you have final reports that you have submitted to  
9 the lawyers who retained you?

10 A. For a very limited time, I suppose. If  
11 they didn't respond -- if they didn't respond that  
12 they received the report, I suppose it's  
13 conceivable, but I don't think it really stores it  
14 for all that long even in the sent box.

15 Q. And when you -- if an attorney were to  
16 respond and confirm receipt, would you go into your  
17 sent items and then delete the email in which you  
18 had sent the final report to the attorney?

19 A. No. But the way it works is if there's a  
20 response to the original email, then it goes to my  
21 inbox. When I'm done with that email, I will delete  
22 it and it no longer appears in the sent box; it's in  
23 the trash box. And the trash box recycles every  
24 month or two.

25 Q. Why do you delete the emails with

1 attorneys who have retained you?

2 A. There's no reason to keep them. I would  
3 have thousands of emails staring at me in my box, so  
4 there's no reason to keep them.

5 Q. Do you delete your professional emails,  
6 your UT Dallas emails?

7 A. Every one of them.

8 Q. When you write a paper with colleagues and  
9 publish it, do you delete copies of that paper?

10 A. What I would do is I would wait until it's  
11 published and then download the PDF from the  
12 publisher.

13 Q. And would you go in and affirmatively  
14 delete the final version that you had on your  
15 system?

16 A. There might be a draft version if I wanted  
17 access to some references; but no, I wouldn't delete  
18 it, per se, but it's not the finalized typeset page  
19 proof version. It's different.

20 Q. I understand. I'm just trying to  
21 understand your document management. So I think  
22 what you're telling me -- what about presentations,  
23 do you give presentations in your academic work?

24 A. I write -- I help write the papers.  
25 Typically my co-author does the presentations at

1 this point. I used to do all the presentations; now  
2 he's doing them.

3 Q. Do you ever create written materials that  
4 you use to teach your students at UT Dallas?

5 A. What do you mean?

6 Q. Well, like slides or a handout or a, you  
7 know, written document of some kind or a  
8 presentation of some kind that you would create for  
9 the benefit of your students at the UT Dallas?

10 A. Well, I create new lecture slides every  
11 class every semester. Those are -- I don't keep  
12 those. I suppose they could be recovered from the  
13 email system but I don't keep them.

14 Q. Do you go in and affirmatively delete  
15 them?

16 A. I would say, yes, because I do new slides  
17 and new lectures -- or new slides based on -- on the  
18 lecture material for that semester each semester, so  
19 I don't keep the slides and recycle them from  
20 semester to semester, no.

21 Q. Do you ever keep slides so that you don't  
22 have to re-create from scratch basic concepts that  
23 you're going to be teaching students year after  
24 year?

25 A. No.



1 Q. I may not have understood that.

2 So you don't keep -- you're telling me you  
3 do not keep slides that you -- I'm sorry, I mangled  
4 that question. I'm going to ask it in a more direct  
5 way.

6 Do you go in and affirmatively delete  
7 lecture slides after using them for a particular  
8 class?

9 A. I don't know if I would call it  
10 affirmatively deleting. I just don't keep them  
11 because every semester I develop brand-new slides  
12 based on the lecture material for that semester.

13 Q. Do you ever use similar lecture material  
14 from semester to semester?

15 A. Oh, yes, and those are my handwritten  
16 notes that I use for my lectures.

17 Q. All right. Do you ever receive copies of  
18 your deposition or trial transcripts in matters  
19 where you have provided litigation support?

20 A. Yeah, before -- if I need to do an errata  
21 sheet, I'll see my deposition. If I have a trial,  
22 then I will re-read my deposition. I don't retain  
23 any of those.

24 Q. When you say you don't retain them, do you  
25 go into your inbox and delete the emails that

1 contain your transcripts?

2 A. No. But when I'm done with the  
3 deposition, I'll just delete the deposition. Or if  
4 it's part of my written file, I'll just discard it  
5 with the file when the case is over.

6 Q. That's a separate topic. I'll come to  
7 your file in a second, but just so I understand with  
8 your transcripts, if lawyer John Doe emails you a  
9 transcript and says, Bruce or Dr. Jacobs, here is  
10 your transcript, could you please review for the  
11 errata sheet, do you go in and delete that email  
12 where the lawyer gave you the transcript?

13 A. After I have printed the transcript, yes.

14 Q. Why?

15 A. Why? Well, there's no reason to keep an  
16 email like that. If he wants me to look at the  
17 deposition and correct any errors, I will print the  
18 deposition or read it online. If I don't notice any  
19 errors, it will be deleted. If I do notice errors,  
20 I'll submit the errata sheet. I don't retain any of  
21 my depositions.

22 Q. Going back to your reports, are there  
23 parts of your expert reports that you use in report  
24 after report after report such as your CV or your  
25 list of testimony or your qualifications?

1           A.     I would say the front matter definitely is  
2     used repeatedly because it describes who I am and  
3     what I do.

4           Q.     Well, when you go to start a new report,  
5     where do you go get the front matter so that you can  
6     copy and paste it into the new report?

7           A.     Typically from a draft of a prior report  
8     or something of that nature.

9           Q.     And is that what you did in this Diaz  
10    case?

11          A.     Probably.

12          Q.     All right. In response to our subpoena  
13    requesting your prior reports and testimony, did you  
14    go into your Gmail and search to see whether you had  
15    any responsive documents?

16          A.     I don't think I did because I don't retain  
17    the original -- as I told you several times already,  
18    I do not retain the original submitted report that I  
19    have sent to counsel, so there would be no reason  
20    for me to search my email if I know that I did not  
21    retain the original submitted report to counsel.

22          Q.     So I understand your testimony a few  
23    minutes ago differently. I understood you to be  
24    testifying that you submit the final report to the  
25    counsel who has retained you by email and you do not

1 go into your sent items and delete that sent email.

2 Is that what you told me a few minutes  
3 ago?

4 A. Correct. But...

5 Q. And so this is a related but different  
6 question. When we served a subpoena on you and  
7 asked for your prior reports, did you log into your  
8 Gmail, go into your sent items or otherwise search  
9 in your email to see if you have any of those  
10 reports that you'd submitted to the counsel who  
11 retained you?

12 A. I don't think I specifically did that, no.

13 Q. All right. I want to turn to some sort of  
14 big picture methodology issues, and then we'll start  
15 to talk in a little bit more detail about this case.

16 Do you have a methodology for reaching  
17 your opinions in a litigation support matter?

18 A. Yes.

19 Q. And what would you -- how would you label  
20 or describe that methodology?

21 A. It's traditional social scientific  
22 methodology for reviewing datasets, documents, and  
23 rendering reliable, professional, scientific  
24 opinions based on said review. And those methods  
25 are content analysis. From content analysis, you

1 have domain analysis. After domain analysis, you  
2 have triangulation. After triangulation, you have  
3 analytic induction. And so I used all those methods  
4 for rendering my opinions in this case. And they're  
5 all peer-reviewed.

6 Q. We'll try --

7 A. I'm sorry, they're all peer-reviewed,  
8 reliable, widely used methods in the social sciences  
9 for reviewing qualitative data such as documents,  
10 depositions, police reports, discovery material, and  
11 so on, and for rendering reliable and reproducible  
12 opinions.

13 Q. We'll talk -- I saw the reference in your  
14 report to triangulation and content analysis and so  
15 on. We'll talk in some more detail as we go through  
16 your report. I just wanted to understand if there  
17 was a different method beyond those three methods or  
18 techniques.

19 Do you have a written protocol of any kind  
20 that you follow when you are applying your  
21 methodology to reach an opinion in a litigation  
22 support matter?

23 A. How do you mean "written protocol"?

24 Q. Well, some scientists have a written  
25 protocol that documents specific steps that they

1 follow to understand the evidence before them and  
2 reach a conclusion. And I'm wondering if you have  
3 any written protocol like that?

4 A. Well, I just described it, I think. It's  
5 also described in my report; again, content  
6 analysis, domain analysis, triangulation, analytic  
7 induction.

8 Q. And so you yourself don't have a written  
9 protocol or set of steps that you followed. Is that  
10 what you're telling me? I mean -- let me back up.

11 I hear you to be telling me that there are  
12 papers that describe content analysis and  
13 triangulation and inductive analysis and so on, and  
14 those are general methods in the social sciences.

15 And I'm wondering if whether you, in  
16 particular, have any specific protocol that you  
17 created or acquired somewhere that you sit down and  
18 follow when you are conducting your analysis in a  
19 litigation support matter?

20 MR. MELCHER: Objection; form.

21 A. You mean like that I kind of created or  
22 invented out of whole cloth, not based on any  
23 established methodology or social science?

24 Q. No, not exactly. It could be something  
25 that you created yourself or it could be something

1 you acquired somewhere else.

2 Do you have anything like that that you  
3 follow?

4 MR. MELCHER: Same objection.

5 Go ahead.

6 A. I'm not sure how to answer that question.  
7 I think I described the methodology that I used. I  
8 mean, obviously within all those techniques,  
9 there's, you know, additional things that you may do  
10 within those techniques to render opinions. But  
11 they -- for example, crime pattern analysis would  
12 fall under probably both content analysis and domain  
13 analysis but it's more of a sub-technique.

14 And so those are -- the four techniques I  
15 described are the overarching tools that I used.  
16 And then within those techniques, there's always  
17 room for drilling down in additional ways, but I  
18 think those four techniques really cover most  
19 everything.

20 Q. We'll talk about those techniques in more  
21 detail as we go through your report. I want to ask  
22 you now about the general work that you performed on  
23 this case.

24 And I would actually like to drill down a  
25 little bit more on your subpoena response. I have a

1 copy of the Word document you shared with us. I  
2 understand that there is someone from Veritext on  
3 the way to the deposition location to bring a laptop  
4 so that you can look at it through a laptop instead  
5 of your phone.

6 So I would like to ask you some questions  
7 about your subpoena response, but let's try this.  
8 Let's just see if we can put it up on the screen and  
9 see if you can see it. And if you can't, then we'll  
10 go from there. Okay.

11 So I'm going to put up what I'm going to  
12 mark as Exhibit 1 on the screen.

13 Do you see -- and it's probably too small  
14 to begin with, but do you see on your screen instead  
15 of my face a Word document?

16 (Exhibit 1 marked.)

17 A. Yeah, I have a hard copy of it.

18 Q. Oh, that's great. I should have asked you  
19 what you brought to the deposition today.

20 What did you bring to the deposition  
21 today?

22 A. My report, the subpoena response, all the  
23 depositions, all the police reports, some additional  
24 notes that I generated in the last few days. That's  
25 pretty much it. Some correspondence, I think, from



1 counsel.

2 Q. The one item there that I don't recognize  
3 that I have a copy of -- and I guess I don't know  
4 what specific correspondence with counsel you're  
5 referring to, but they produced a bunch. So I'm  
6 going to assume that they produced everything they  
7 were supposed to. Julie seems pretty careful.

8 Can you tell me about the notes that you  
9 generated recently that you brought with you today?

10 A. Yeah. Typically a few days before the  
11 deposition when I'm reviewing all the material in  
12 preparation, I'll generate some handwritten notes to  
13 guide me through some questions that you may have.

14 So I have -- looks like I have 12 pages of  
15 handwritten notes that I have developed specifically  
16 for today. And I will obviously either have the  
17 court reporter give these to you or have Mr. Melcher  
18 scan and send them to you, however you want to do  
19 it.

20 Q. Thank you.

21 I'm just going to go ahead and mark your  
22 12 pages of handwritten notes as Exhibit 2 to the  
23 deposition.

24 (Exhibit 2 marked.)

25 MR. BLOCK: And, Michelle, if you will

1 just, you know, grab a copy of those, we'll work on a  
2 break to get them. Okay?

3 THE REPORTER: Yes, sir.

4 MR. BLOCK: Thank you.

5 Q. So if we turn back to Exhibit 1, your  
6 subpoena response, the first item, we asked you for  
7 all documents reflecting your, quote, site  
8 inspection and area canvass, end quote, interview  
9 with property manager. And you refer first to an  
10 L. Wynn, SP MGR, since 2017, 3/8/22.

11 Do you see that in your physical copy of  
12 Exhibit 1?

13 A. Yes.

14 Q. And I'm just going to take down the  
15 electronic copy of Exhibit 1 since you have a  
16 physical copy.

17 Okay. So I interpret your response to  
18 mean that on March 8, 2022, you had an interview  
19 with Ms. Wynn, the former manager of Seven Courts.  
20 Is that fair?

21 A. Correct.

22 Q. And how do you conduct -- well, was that  
23 interview conducted by telephone or in person or by  
24 some other means?

25 A. In person.

1 Q. And was that during your trip to Atlanta  
2 to do this site inspection, area canvass?

3 A. Yes.

4 Q. How long was your interview with Ms. Wynn?

5 A. Maybe close to an hour, 45 minutes maybe.

6 Q. And where was that interview conducted?

7 A. In the leasing office.

8 Q. At Seven Courts?

9 A. Yes.

10 Q. Did you speak to Ms. Wynn at any other  
11 time?

12 A. I don't think so.

13 Q. Who was there with you and Ms. Wynn during  
14 that conversation?

15 A. Mr. Melcher and I think there was another  
16 staff member in the office but not in -- immediately  
17 in the interview room with us.

18 Q. Did you take any notes from your interview  
19 with Ms. Wynn?

20 A. I think I took some handwritten notes, but  
21 I converted them to this -- to this response so they  
22 are legible and could be read and then I could use  
23 them for the report that I generated.

24 Q. What was the purpose of your interview  
25 with Ms. Wynn?

1           A.    I just wanted to get a sense of the crime  
2 prevention measures that would have been in place at  
3 or near the time of the incident.

4           Q.    Did you -- you discussed with Ms. Wynn  
5 crime prevention measures.

6                   Did you also discuss with Ms. Wynn the --  
7 any prior instances of crime at Seven Courts?

8           A.    It might have come up, but I had all the  
9 police reports, so that wasn't an explicit focus of  
10 our discussion.

11          Q.    And did the -- I'm looking here at the  
12 notes you took.

13                   Did you ask Ms. Wynn to -- or anyone, for  
14 that matter, affiliated with TPI and Seven Courts to  
15 provide evidence of what the supposed security  
16 measures were and that they were in place?

17          A.    Evidence in terms of?

18                   MR. MELCHER: Let me just object to  
19 form.

20                   Go ahead if you understand the  
21 question.

22          A.    I mean, I'm not sure what you mean by  
23 evidence. This was an in-person interview. I asked  
24 her questions and these are the responses.

25          Q.    Well, let's take a few of these. The

1 first bullet you have is criminal background checks  
2 of residents, so I'm assuming Ms. Wynn told you that  
3 TPI conducted criminal background checks of  
4 residents, right?

5 A. When I asked her, yes.

6 Q. So actually, let me back up. Did you ask  
7 her, tell me what kinds of crime prevention measures  
8 you have in place at Seven Courts, and did she just  
9 rattle off a list or did you have a list that you  
10 were working off of?

11 A. I have a generalist that I work off of. I  
12 mean, I have done this so many times, I can do it  
13 mostly from memory. But these are the -- when I  
14 have an apartment complex case, these are the kinds  
15 of things I ask them about, so the questions would  
16 have come from me.

17 Q. All right. So if we look at some of  
18 those, if we look at criminal background checks of  
19 residents, is it your testimony that Ms. Wynn told  
20 you TPI conducted criminal background checks of  
21 residents?

22 A. When I asked her if they did that, she  
23 said, yes. I think she talked about no prior  
24 felonies, but I don't recall specifically, but  
25 that's typically the rule or the guideline at an

1 apartment complex.

2 Q. Did you ask her to provide any  
3 documentation that, in fact, TPI was conducting  
4 criminal background checks of residents?

5 A. I don't think so because that would have  
6 come from the discovery that was already provided.  
7 So I think the HUD guidelines capture that that were  
8 in the discovery. So no, I didn't ask, for that  
9 reason.

10 Q. I don't recall seeing HUD guidelines  
11 provided in discovery in your report as something  
12 that you reviewed.

13 Are you telling me that you reviewed some  
14 HUD guidelines that are specific to this case?

15 A. No. That's my general knowledge of HUD  
16 guidelines and the criminal background checks they  
17 require of tenants at properties such as these.

18 Q. What is the role of the HUD guidelines, in  
19 your view, as it relates to apartment safety?

20 MR. MELCHER: Objection; form.

21 A. Well, depends on what kind of safety  
22 you're talking about. I mean, the HUD guidelines  
23 cover everything from potholes and lead paint to  
24 lighting. And so there's a variety of things that  
25 they address, so I can't really narrow it down

1 unless you give me more specifics.

2 Q. Well, are the HUD guidelines a source that  
3 you consider when you're evaluating the security  
4 conditions at an apartment complex?

5 A. As it relates to things like criminal  
6 background checks and things of that nature, I would  
7 say yes.

8 Q. Are there parts of the HUD guidelines that  
9 you think should not be considered in evaluating the  
10 safety of an apartment complex?

11 A. I would have to get the guidelines out and  
12 really pour over them to respond to that adequately.

13 Q. Sitting here right now, recognizing that  
14 you don't have the guidelines in front of you but  
15 they're something that you have testified and you  
16 have in your brain from your 20 years of service as  
17 a litigation support expert, are there specific  
18 parts of the HUD guidelines sitting here that you  
19 think you disagree with and don't apply when you're  
20 evaluating the safety of an apartment complex?

21 A. Not that I can recall as I sit here.

22 Q. So if we look further at the list --  
23 actually, let's stay with criminal background checks  
24 of residents because I just want to make sure I get  
25 a good answer on this.

1 Have you ever asked TPI to provide any  
2 documentation to confirm that they, in fact, were  
3 conducting criminal background checks of residents  
4 at Seven Courts?

5 A. I thought that was asked in the  
6 interrogatories, so no, I didn't ask because I  
7 believe it was asked in the interrogatories.

8 Q. What about drug- and crime-free lease  
9 provisions, did you ask for documentation to confirm  
10 that TPI actually had and was enforcing drug- and  
11 crime-free lease provisions?

12 A. I think that was part of the Georgia  
13 Apartment Association standard lease, so it would be  
14 in there.

15 Q. What about community rules for acceptable  
16 behavior, did you ask for documentation of what  
17 TPI's community rules for acceptable behavior are?

18 A. Once again, I think that would be in the  
19 GAA certified lease.

20 Q. What about eviction of noncompliant  
21 residents, did you ask for documentation that TPI  
22 was actually evicting noncompliant residents?

23 A. Well, there was sworn testimony in the  
24 depositions about that conduct. It's also specified  
25 in the lease, the GAA lease, about what is grounds



1 for eviction. But did I ask for everyone who has  
2 ever been evicted from Seven Courts in the three  
3 years prior to this incident, no.

4 Q. I'm going to skip down a little bit. One  
5 of your bullets is routine vacant unit checks for  
6 squatters/drug dealing.

7 Do you see that?

8 A. Yes.

9 Q. Did you ask TPI to provide any evidence  
10 that, in fact, they were conducting routine vacant  
11 checks for squatters/drug dealing?

12 A. Well, I asked her -- in my personal  
13 interview, but I asked her for -- you say evidence,  
14 I mean, I don't create my own evidence, I mean,  
15 that's for you guys to do. So I asked her do they  
16 do that, and she answered affirmatively.

17 Q. So I was going to get to this a little bit  
18 later, but in your report, you have a list of  
19 materials reviewed, which includes deposition  
20 transcripts and the complaint and the answer and  
21 some -- I'm not sure all -- of the discovery  
22 responses.

23 Did you ask TPI for access to other  
24 evidence that had been produced in the case?

25 MR. MELCHER: Objection; form, term

1 "evidence."

2 Go ahead.

3 A. I just asked them to produce all the  
4 discovery in the matter; all the depositions, all  
5 the exhibits thereto, everything that had been  
6 produced as relevant to the file that I need to  
7 review.

8 Q. Did you ask TPI to produce the documents  
9 that the company has produced in this case?

10 A. I'm not sure what you mean. Once again, I  
11 asked them to produce all the discovery.

12 Q. Sure.

13 So just as an example, TPI has produced  
14 hundreds or thousands of emails and text messages  
15 primarily about the security conditions at Seven  
16 Courts.

17 Did you ask TPI to provide you access to  
18 the documents such as emails and text messages about  
19 security conditions at Seven Courts?

20 A. I believe those were exhibits to the  
21 depositions, so that's how I was -- had access to  
22 them.

23 Q. So other than documents that someone shows  
24 to make an exhibit at a deposition, did you ask TPI  
25 to provide you access to the other documents, such

1 as emails and text messages, about security  
2 conditions at Seven Courts?

3 MR. MELCHER: Objection; form.

4 A. Again, I asked for the available  
5 discovery. That's what I asked for.

6 Q. Did you ask if there was anything more  
7 than what you had been provided?

8 MR. MELCHER: Objection; form and  
9 asked and answered.

10 A. I'll stick with my previous answer.

11 Q. Why did you not go and ask affirmative --  
12 if I understand your testimony correctly -- let me  
13 back up and make sure I understand it correctly. I  
14 understand you to be telling me that you asked TPI's  
15 lawyers to give you the discovery in the case.

16 Did you take any other steps to confirm  
17 that, in fact, they had given you all of the  
18 discovery in the case?

19 MR. MELCHER: Objection; form,  
20 harassing.

21 A. I don't -- I can't ask for what I don't  
22 know doesn't exist. So I asked for all the  
23 discovery. I don't know how else to say that.

24 Q. Would it be important to your analysis to  
25 consider all of the emails and text messages about

1 security conditions that TPI has produced in the  
2 case?

3 MR. MELCHER: Objection as far as it  
4 calls for speculation.

5 A. If it was part of the discovery, I asked  
6 for it.

7 Q. So if there's a break down in you not  
8 having all of the information relevant to security  
9 conditions at Seven Courts, I think you're telling  
10 me that would be on TPI's lawyers, not you?

11 MR. MELCHER: Objection; form,  
12 harassing.

13 A. I can't answer that question. I don't  
14 know. You're implying that they have this trench of  
15 materials that was not provided to me that's somehow  
16 relevant to the case. And I have seen no evidence  
17 of that.

18 Q. Did you ask if there is any?

19 MR. MELCHER: Same objection.

20 A. For the fourth time, I asked for all of  
21 the available discovery to be provided to me so that  
22 I could review the file and render professional  
23 opinions.

24 Q. Let's turn back to your response to our  
25 subpoena, Exhibit 1. You describe systematic

1 lighting on buildings, doors, and in common areas,  
2 and routine lighting inspections and repairs.

3 Did you ask TPI for any evidence of what  
4 the supposed systematic and routine lighting  
5 measures were?

6 A. Well, the -- again, I don't create my own  
7 evidence. I asked them if they did that. I  
8 triangulated her responses with deposition testimony  
9 from both Hickey and Holt and Fontaine and Wynn that  
10 lighting inspections were, in fact, routinely done  
11 either by leasing office personnel or security  
12 personnel, and if lights were out, they were  
13 repaired. So that would be the answer to the  
14 question.

15 Q. One of your bullets is routine property  
16 inspections by management personnel.

17 Did you ask for any copies of documents,  
18 such as inspection reports, that were created as a  
19 result of those routine property inspections?

20 A. No because you already did that in your  
21 interrogatory requests, so no, I did not make a  
22 secondary request.

23 Q. Have you ever seen something that you  
24 would consider a record of a routine property  
25 inspection by management personnel?

1 MR. MELCHER: Objection; form.

2 Are you talking about in this matter  
3 or in general?

4 MR. BLOCK: I think you know the  
5 question is directed to this matter.

6 MR. MELCHER: All right. Well it  
7 wasn't limited to that with respect to your question  
8 itself, but since it's limited to this matter.

9 MR. BLOCK: Okay. Can you please stop  
10 stepping over my questions?

11 MR. MELCHER: What are you talking  
12 about?

13 Q. Dr. Jacobs --

14 MR. MELCHER: I have the right --

15 Q. Dr. Jacobs --

16 MR. MELCHER: I have the right to  
17 object, and I'm doing the best job I can considering  
18 we're, you know, basically on, you know, the  
19 Clampetts' telephone line here.

20 Q. Dr. Jacobs, have you seen anything in this  
21 matter that looks to you like a record of a routine  
22 property inspection by management personnel?

23 A. I would have to get out all of the file  
24 materials to say yes or no, but again, these are  
25 questions I asked Ms. Wynn, and they were verified

1 by the deposition testimony.

2 Q. Well, is there any deposition testimony  
3 you can recall reflecting periodic -- excuse me --  
4 routine property inspections by management  
5 personnel?

6 A. Well, sure. Both Fontaine and Wynn  
7 testified that they routinely walked around the  
8 property. They routinely inspected the property  
9 for, you know, issues that may come up. This was --  
10 these statements were peppered throughout all the  
11 depositions, including Holt and Hickey.

12 So -- now are you talking about a specific  
13 official form that says property inspection, no.  
14 But that's -- that's not the gist of that bullet  
15 point. The gist of the bullet point is were they --  
16 were there boots on the ground at the property, were  
17 they walking the property, were they identifying  
18 potential hazards, and were they reporting them  
19 either to security or the higher-ups if they, in  
20 fact, existed, and they were.

21 Q. Let's look at your next bullet: Periodic  
22 HUD and state inspections of property (every Feb.).

23 Have you seen any documentation associated  
24 with periodic HUD and state inspections of the  
25 property?

1           A.     Whatever was provided in the file is what  
2     I reviewed. I asked her if they conducted these  
3     inspections, and I know for a fact that HUD requires  
4     them and I believe the State also does. But in  
5     terms of what's in the file, I relied on counsel to  
6     provide that material.

7           Q.     In your experience as a longtime  
8     litigation support consultant, would you expect that  
9     periodic HUD and state inspections of a property  
10    would result in some sort of documentation from  
11    either HUD or the state inspectors about their  
12    findings that they would share with the property?

13          A.     Typically you would see a form. Yeah,  
14    typically you would have that.

15          Q.     And do you have a specific recollection of  
16    seeing any such forms in this case?

17          A.     Not that I recall.

18          Q.     Me neither.

19                 How about periodic inspections of property  
20    by Preservation Management ownership once a year, do  
21    you recall seeing any documentation of the results  
22    of those periodic inspections?

23          A.     Nothing other than the deposition  
24    testimony and perhaps some of the emails that were  
25    referenced in the depositions about -- from Rodrick



1 Harris to Wynn and back and forth and so forth.

2 Q. What about multiple daily patrols provided  
3 by the area police officers, have you seen any  
4 documentation of those?

5 A. Well, there probably wouldn't be if  
6 there's no crime and there's no call for service.  
7 So I asked Ms. Wynn specifically did APD  
8 periodically patrol the property and the area,  
9 you're on the property every day for hours of the  
10 day, did you see them doing that, and she answered  
11 affirmatively.

12 But in terms of an official record, if  
13 there's no crime and no call for service, you  
14 wouldn't see that.

15 Q. Did you take everything that Ms. Wynn told  
16 you about the security conditions at Seven Courts at  
17 face value?

18 A. Well, I compared them to the record,  
19 obviously; the deposition testimony, the emails and  
20 correspondence, the police reports, all the  
21 available discovery. So there was triangulation  
22 there.

23 Q. Is there anything Ms. Wynn told you about  
24 security conditions at Seven Courts that you  
25 disagreed with or didn't think happened?

1 A. Not that I recall as I sit here.

2 Q. Are you aware of allegations that Ms. Wynn  
3 herself was involved in criminal activity?

4 A. I have seen the allegations from Mr. Holt,  
5 yes.

6 Q. And did you factor that into your analysis  
7 of whether to rely on Ms. Wynn's report to you?

8 A. Yes. Although, you know, I'm not in the  
9 credibility assessment business. Obviously there's  
10 a factual dispute between Mr. Holt and Ms. Wynn  
11 about who was doing what, when, and how.

12 But I will say that almost all those  
13 concerns seem to have been neutralized by the  
14 deposition testimony of former employee Fontaine, in  
15 addition to 30-year law enforcement veteran Kenneth  
16 Hickey, both of whom essentially undermine almost  
17 entirely virtually everything that Mr. Holt said.

18 So once again, that's the jury's call, not  
19 mine, but you asked me the question, so that's my  
20 answer.

21 Q. So I think what you're telling me is that  
22 in reading the deposition testimony of various  
23 witnesses, you decided to believe the version of  
24 events in which Latoya Wynn is not a criminal?

25 MR. MELCHER: Objection; form.

1           A.     That's not what I said at all, and so I'll  
2     just stick with my previous answer.

3           Q.     If, in fact, Ms. Wynn was involved in  
4     criminal activity, what would that mean for your  
5     reliance on the interview you conducted with her?

6                     MR. MELCHER:   Objection; form.

7           A.     Well, that would convert back to what  
8     extent to these data points were they triangulated  
9     by either the records or the testimony or my site  
10    visit. And I think all of them were. I mean -- so  
11    the only thing that -- looking at the list here, I  
12    mean, my site visit and the deposition testimony and  
13    the exhibits thereto triangulated, I think, just  
14    about all these data points.

15          Q.     You didn't triangulate the periodic HUD  
16    and state inspections of the property every  
17    February, did you?

18          A.     I think Ms. Fontaine talked about them,  
19    but I need to re-read her deposition to be sure.

20          Q.     You didn't triangulate multiple daily  
21    patrols provided by beat area police officers, did  
22    you?

23          A.     Well, unless I'm riding with the cops, I  
24    don't think I could. But Mr. Holt testified that  
25    the cops were routinely at or around the property.

1 The police reports I reviewed showed police presence  
2 at the property. I think Hickey testified to the  
3 same, Fontaine as well.

4 So once again, unless there's -- that  
5 particular data point, unless there's a police  
6 report or a call for service, you would not be able  
7 to triangulate that other than the deposition  
8 testimony that I referenced.

9 Q. Let me see if I understand something that  
10 I think you're saying. If the police is at Seven  
11 Courts to respond to a crime, like let's say there's  
12 a shooting and the police respond to a 911 call for  
13 the shooting, is that police presence something you  
14 would consider a crime prevention measure?

15 A. Well, it potentially could be, but I'm  
16 talking about more of narratives that say, you know,  
17 police were patrolling the area, and while  
18 patrolling the area, X, Y, or Z happened. And so  
19 that would be more of an example than responding to  
20 a crime that has already been committed.

21 Q. Your last bullet is for periodic security  
22 patrol.

23 What do you mean there?

24 A. So that would be Hickey's presence after  
25 May 21 where he was patrolling the property

1 periodically, passing out fliers and so forth.

2 Q. And do you consider -- you're referring to  
3 Mr. Hickey's testimony where he would drive through  
4 the property and pass out notices?

5 A. I believe the testimony was three times a  
6 week he would patrol the property, and during the  
7 patrol, he would pass out these fliers or notices or  
8 vice versa. Nobody asked him how long he was at the  
9 property each time, so I don't know the duration,  
10 but there was a periodic security patrol based on  
11 his presence.

12 Q. His testimony was that his function was  
13 mostly passing out notices.

14 Do you remember that?

15 MR. MELCHER: Objection; form.

16 A. Right. But he also said while he was  
17 there, he would have eyes on the property and  
18 potentially -- potentially report issues that came  
19 up.

20 Q. And in your view, is that a security  
21 measure?

22 A. Oh sure.

23 Q. Is it a strong security measure?

24 A. I'm not sure how to define strong but it's  
25 a security measure.

1 Q. Is it, in your view, an important security  
2 measure?

3 A. It depends on the violent crime pattern in  
4 play at the subject property.

5 Q. Would it have been -- let me back up so  
6 that we're all clear about what we're talking about.

7 Were Mr. Hickey's May, June, July random  
8 drive-throughs mostly to pass out notices, would  
9 that have been an important security measure given  
10 the crime conditions at Seven Courts?

11 MR. MELCHER: Objection; form.

12 A. I thought it was reasonable relative to  
13 the violent crime risk there, yes.

14 Q. Would it have been sufficient to deter  
15 violent crime?

16 MR. MELCHER: Objection; form.

17 A. It would depend on the offender you're  
18 trying to deter.

19 Q. Tell me which offenders or types of  
20 offenders driving through the property randomly,  
21 mostly passing out notices would deter at Seven  
22 Courts in the summer of 2021.

23 MR. MELCHER: Objection; form.

24 A. Typically offenders who are ambiguity  
25 averse, so randomized patrol like that where

1 offenders don't know when they're coming, how long  
2 they're staying, when they're coming back. An  
3 ambiguity averse offender would be deterred by that  
4 kind of measure.

5 Q. What kind of offenders would not be  
6 deterred by that kind of measure?

7 A. Someone high on PCP would be an example,  
8 someone drunk, somebody desperate, somebody who just  
9 simply doesn't care about security, those would be  
10 examples.

11 Q. We'll talk more about some of those  
12 opinions, but I want to just finish up on your  
13 subpoena response.

14 On the second page, you refer to axial  
15 codes and selective codes.

16 What do you mean there?

17 A. That comes from the domain analysis  
18 methodology where there's axial codes, selective  
19 codes, subselective codes, which you're essentially  
20 organizing the data into very specific categories,  
21 and then ultimately those categories will be linked  
22 through analytic induction to the scientific  
23 literature, so that's what those codes refer to.

24 Q. All right. I'm looking now at -- I guess  
25 it's the next page, the third page under number --

1 you responded that you will bring the original  
2 police reports with shorthand summary of each crime  
3 type on the top right-hand corner of page 1 of each  
4 police report to the deposition.

5 Did you do that today?

6 A. Yes.

7 Q. Let's mark those as Exhibit 3, and we'll  
8 make a --

9 MR. BLOCK: I don't need to see those  
10 today, Michelle, I just want to make a copy of them,  
11 and then we can get the --

12 Q. You know, I assume, Dr. Jacobs, you would  
13 like to have a copy with your notes at least for the  
14 duration of this case, so we don't want to -- we  
15 need to get those back to you somehow --

16 A. Yes.

17 Q. -- or a copy of them.

18 Okay. We talked about the other things,  
19 so let's set aside Exhibit 1. And let me make a  
20 note of Exhibit 3, which is your -- for the record,  
21 your copies of the police reports with your  
22 handwritten notes.

23 If you know, Dr. Jacobs, which years of  
24 APD police reports did you consider in forming your  
25 opinions in this case?



1 (Exhibit 3 marked.)

2 A. I think it was 7/'18 to 7/'21.

3 Q. You mean July '18 to July 2021?

4 A. Yes.

5 Q. So that's a three-year reference period?

6 A. Yes.

7 Q. And why did you consider APD reports over  
8 a three-year reference period?

9 A. Two to three years is a standard reference  
10 period in my field. Three years is specified in the  
11 OSHA risk assessment guideline. Two years is the  
12 published criminal logical guideline for look back.  
13 So I typically look at two to three years in my  
14 practice.

15 Q. And just so I understand that, so three  
16 years is in the OSHA risk assessment. And can you  
17 just explain for the record why you would  
18 incorporate an Occupational Safety and Health  
19 Administration standard into your criminology  
20 assessments?

21 A. Because it's a federal risk guideline.

22 Q. And then the two-year standard, where did  
23 you testify that came from?

24 A. That comes from a 1989 peer-reviewed  
25 scientific article assessing foreseeability by the

1 former president of the American Society of  
2 Criminology.

3 Q. And what is the author name of that  
4 article?

5 A. Lawrence Sherman.

6 Q. And is that something that you would have  
7 produced in your production of papers?

8 A. Yes, it's one of the hundred-plus PDFs  
9 that I uploaded to the ShareFile link.

10 Q. Sure. Let me just get that out now while  
11 we -- I just want to get the title for the record.

12 So Sherman -- that's from 2017, so that's  
13 not it. Is it -- okay. Let me look at the date.

14 Did you say 1979 or 1989?

15 A. '89.

16 Q. Okay. So is the paper that you're  
17 referring to Violent Stranger Crime at a Large  
18 Hotel: A Case Study in Risk Assessment Methods by  
19 Lawrence W. Sherman?

20 A. Yes.

21 Q. Okay. So that's the source from which  
22 you're drawing the two-year reference period?

23 A. Correct.

24 Q. Can you explain why you would rely on the  
25 Sherman paper from 1989 to derive a two-year

1 reference period?

2 A. Because, once again, it's a peer-reviewed  
3 scientific article. It's published in a very  
4 reputable social science journal. It's written by  
5 one of the most highly respected criminologists in  
6 the world, former president of the American Society  
7 of Criminology, former president of the American  
8 Association of Experimental Criminology, former -- I  
9 believe former president of the Academy of Criminal  
10 Justice Sciences. His work has been cited, I  
11 believe, over 40,000 times in scholarly literature  
12 attesting to its impact and acceptance. So that's  
13 why.

14 Q. So what do you do -- when you're looking  
15 back two years or three years, depending on whether  
16 you're -- whether you're -- let me make sure I  
17 understand.

18 How would -- would "reference period" be  
19 the term that you use to describe the time period  
20 over which you analyze crime data for a subject  
21 property?

22 A. Right.

23 Q. And in this case, how long of a reference  
24 period did you use?

25 A. Well, I think I -- I had police reports

1 for the three years prior, so obviously I'm looking  
2 at those police reports relative to the security  
3 measures that were in place at or near the time of  
4 the incident.

5 Q. So did you use a three-year reference  
6 period in forming your opinions in this case?

7 A. I used a three-year reference period to  
8 assess the reasonableness of the measures that were  
9 in place at the time of the incident. But obviously  
10 also I'm looking for recency of violence within the  
11 three-year reference period, which is also standard  
12 methodology.

13 Q. We'll come to that, but just -- maybe  
14 let's ask it this way: What types of data did you  
15 consider over a three-year period in forming your  
16 opinions in this case?

17 A. I looked at all the police reports and  
18 analyzed them.

19 Q. Did you make any -- other than -- let me  
20 back up.

21 The police report, I know what you're  
22 talking about because I have seen the email sending  
23 them to you. And I'm actually the one who made Open  
24 Records Act request for them at the beginning of the  
25 case, so I know what you mean.

1 But just for the record, when you say  
2 "police reports," you mean Atlanta Police Department  
3 police reports that counsel for TPI provided to you?

4 A. Yes.

5 Q. Did you yourself request any other crime  
6 data from the Atlanta Police Department in forming  
7 your opinions in this case?

8 A. I don't recall that I did, no.

9 Q. And did you request crime -- excuse me.  
10 Did you request crime data from any other  
11 source in forming your opinions in this case?

12 A. I don't believe so.

13 Q. All right. I promise you we will get to  
14 your report, but I'm still trying to understand how  
15 you approached this case.

16 So we have seen -- I don't think we need  
17 to make them an exhibit right now, but we, I think,  
18 received in the last day or two a couple of invoices  
19 of yours, not the one you sent us for the  
20 deposition, these are invoices you sent to  
21 Mr. Melcher and his team.

22 And it looks like you had one invoice from  
23 March 9th for \$7,516 for a total of 21 and a half  
24 hours, and then you had a June 30th, 2022, invoice  
25 in the amount of \$2,310 for a total of 5.85 hours.

1           So I guess as of June 30th, according to  
2     your invoices, you had spent about 27 -- a little  
3     over 27 hours working on this case.

4           Does that sound about right to you?

5     A.    Yes.

6     Q.    And I notice that one of your invoices --  
7     your March 9 invoice refers to your Atlanta trip.

8           Did you bill for the whole time that you  
9     were traveling to and in Atlanta?

10    A.    Right. I mean, I -- travel time is  
11   included, so the flight, doing analysis typically on  
12   the flight of some kind, the visit, and then return  
13   to Dallas.

14    Q.    Sure. I'm not -- I mean, like, it's --  
15   for lawyers, it's client by client whether they're  
16   going to pay for travel time, so I understand what  
17   you're saying. I just -- and good for you if you  
18   can charge the client for travel time whether you're  
19   working for the client or not.

20           What I'm trying to understand is if we  
21   look at your if we look at your total time as of  
22   June 30, 2022, some fraction of that will be for  
23   your travel time during perhaps -- during which you  
24   perhaps were working on this case.

25           Is that what you're telling me?

1           A.     Right.  So, you know, the flight is an  
2     hour and a half each way, you know, that's a real  
3     quick flight, so, yeah, that would be it.  Maybe,  
4     you know, my house to the airport is half an hour,  
5     so -- right.

6           Q.     Did you spend the night in Atlanta?

7           A.     No.

8           Q.     How long were you in Atlanta for your site  
9     visit trip?

10          A.     Maybe five hours, six.

11          Q.     So that's like, you know -- well, let me  
12     ask it this way because obviously there's some type  
13     at a big airport, but how long would you say you  
14     were on the ground actively conducting your site  
15     visit and also your area canvass on your trip to  
16     Atlanta?

17          A.     Probably three to four hours maybe.

18          Q.     And roughly how much of that time was the  
19     site visit to Seven Courts?

20          A.     I don't recall.  I mean, I inspected the  
21     property and interviewed Ms. Wynn.  We did the area  
22     inspection.  I probably -- we probably came back to  
23     the property multiple times, which is what I like to  
24     do in a case.  So I don't know what the breakdown  
25     is.

1 Q. We'll talk in some more detail about the  
2 site visit and the area canvass when we go through  
3 your report which is actually what I would like to  
4 turn to now.

5 MR. BLOCK: But before I do, does  
6 anybody need to take a break, in particular the court  
7 reporter who has the hardest job here.

8 THE REPORTER: Yes, please.

9 MR. BLOCK: Let's take a five-minute  
10 break if that's enough for everybody.

11 (Recess 10:25 a.m. to 10:32 a.m.)

12 Q. Dr. Jacobs, I'm going to mark, for the  
13 record, a copy of your June 27, 2022, expert report  
14 as Exhibit 4.

15 And I believe you have a copy in front of  
16 you; is that right?

17 (Exhibit 4 marked.)

18 A. Yes.

19 Q. Very good. Then I will not put one up on  
20 your screen.

21 If I understand the emails correctly,  
22 Dr. Jacobs, you were retained by TPI sometime in the  
23 winter 2021.

24 Does that sound right, to you?

25 A. I was retained by Mr. Melcher, not TPI,



1 but I believe the date was correct.

2 Q. Sure.

3 You were retained by Mr. Melcher on behalf  
4 of TPI --

5 A. Correct.

6 Q. -- right?

7 A. Correct.

8 Q. Sometime in late 2021 is when you were  
9 retained by Mr. Melcher? Yes?

10 A. I think so. Either late '21 or early '22.

11 Q. Okay. And your report is dated June 27,  
12 2022, although it was not actually disclosed to us  
13 until the deadline, which was July 11, 2022.

14 Do you have any understanding of why your  
15 report is dated June 27 even though it was provided  
16 to us on July 11?

17 A. That's -- June 27 is when I completed it,  
18 so that's all I can say.

19 Q. Sure. Yeah, obviously they didn't need to  
20 give it to us before the deadline; I was just  
21 curious about that two-week gap.

22 So you completed your report June 27, and  
23 you'd obviously then reached your opinions by  
24 June 27 of 2022, correct?

25 A. At that -- the opinions at that time,

1 correct.

2 Q. Sure. We'll get to that.

3 But can you tell me when you reached your  
4 opinions that you put in your June 27, 2022, report?

5 A. The date, no, I don't know the date.

6 Q. Was it before or after your site visit to  
7 Atlanta -- to Seven Courts in Atlanta?

8 A. It would have been after the site visit.

9 Q. And can you tell me how you came to the --  
10 I understood your methodology -- your description of  
11 your methodology previously. But can you tell me,  
12 like, how you came to form the opinions that you  
13 express in your June 27th report?

14 A. It would just have been based on reviewing  
15 the totality of the material in the file in addition  
16 to the site inspection.

17 Q. So you sort of alluded to something, and  
18 I'll ask it directly.

19 The very first line of your report after  
20 "dear Mr. Melcher," is, This is a preliminary report  
21 in the Caceres/Seven Courts matter.

22 And the -- I want to make sure I get it  
23 right. I think it's paragraph 41. At the end of  
24 your report reinforces that -- it's actually  
25 paragraph 46, excuse me, excuse me, also refers to

1 this is a preliminary report.

2 Can you tell me what do you mean by a  
3 preliminary report?

4 A. That's standard language I use in case  
5 additional facts, evidence, or discovery material  
6 becomes available between the time I issue my report  
7 and the time I'm deposed or the time of trial.

8 Q. Have your opinions changed at all since  
9 the time of your report?

10 A. I don't think so.

11 Q. Since the time of your report, June 27,  
12 2022, have you reviewed any additional evidence in  
13 this matter?

14 A. There were a few depositions that were  
15 taken after my report. I think Hugh Jacobs was one  
16 of them I reviewed. I think there was a couple --  
17 Rafael Lenz. I think there was a couple family  
18 members as well, but my opinions did not  
19 fundamentally change.

20 Q. Okay. Well, sure, so we can just get out  
21 the list of witnesses who were deposed after  
22 June 27th of your report. It was Hugh Jacobs, Erik  
23 Zamora, Rafael Lenz, and then the two youngest Diaz  
24 children. And I think they all were deposed after  
25 the date you finalized your report.

1 And I think you're telling me that none of  
2 that testimony has, in your words, fundamentally  
3 changed your opinions in this case?

4 A. That's correct.

5 Q. Is that right?

6 A. That is correct.

7 Q. After -- in addition to those depositions,  
8 after finalizing your report on June 27th, did you  
9 review any additional evidence or discovery material  
10 from this case?

11 A. I reviewed the psychologist expert's  
12 report just for my own edification and then whatever  
13 exhibits were embedded in the depositions taken  
14 after my report and before today.

15 Q. Okay. And other than those materials, did  
16 you consider any other -- like, documents that were  
17 produced in the litigation that -- did you review  
18 anything like that after finalizing your report on  
19 June 27th other than what would incidentally be in a  
20 deposition transcript you were reading?

21 A. Nothing other than the discovery material  
22 that was part of the totality of the file.

23 Q. So if we think about the language where  
24 you say your report is preliminary, you also say in  
25 your report that you hold these opinions to a

1 reasonable degree of scientific probability. That's  
2 paragraph 43.

3 First tell me, what do you mean by "a  
4 reasonable degree of scientific probability"?

5 A. In the sense that would someone who  
6 replicated my methodology in the field of  
7 criminology reviewing the same set of materials that  
8 I reviewed, would they more likely than not come to  
9 the same or similar opinions, and that's what it  
10 means, I believe.

11 MR. MELCHER: I'm just going to object  
12 as far as it calls for a legal conclusion.

13 Q. So -- okay. Explain to me the interaction  
14 between having preliminary opinions and holding them  
15 to a reasonable degree of scientific probability.

16 A. In other words, based on all of the  
17 material that I reviewed up to the point of writing  
18 the report, these are the opinions. These opinions  
19 are reproducible and reliable. However, if  
20 additional material becomes available that I need to  
21 review that may change those opinions, then I  
22 reserve the right to do that. That's all it means.

23 Q. And do you have any staff or anyone who  
24 assists you in preparing your opinions and reports  
25 in a litigation support matter like this?

1 A. No.

2 Q. Do you write your own reports?

3 A. Yes.

4 Q. How long did it take you, roughly, to  
5 write your report in this case?

6 A. Well, it depends on what you count. I  
7 mean, obviously I had to review all the documents,  
8 do my site visit, have consultations with  
9 Mr. Melcher and so forth. So that's all part of the  
10 report even though it's not writing the report.

11 Are you talking about the physical writing  
12 of the report?

13 Q. Yes, sitting at a computer.

14 A. I'm going to estimate three hours.

15 Q. Had you reached your opinions that you  
16 offer in this report prior to completing, let's say,  
17 a draft of the report?

18 A. Yes.

19 Q. All right. I want to go through your  
20 report in some detail. So you have told me about  
21 paragraph 1. Looking at paragraph 2, you say, My  
22 scientific research focuses on serious criminality,  
23 predatory violence, and illegal drug distribution.

24 I'm wondering if in your research  
25 experience you find that there is a relationship of

1 any kind between illegal drug distribution and other  
2 forms of predatory violence or serious criminality?

3 A. There can be. It depends on the drug. It  
4 depends on the level of the dealing hierarchy that  
5 the players are involved in. It depends on the  
6 relationships between the dealers and the users. It  
7 depends on the neighborhood. There's a lot of  
8 contingencies but it's possible, sure.

9 Q. Did you evaluate -- well, I'll just tell  
10 you, I don't see any reference in your report to  
11 consideration of whether there was drug activity at  
12 Seven Courts.

13 Is that a fair interpretation of your  
14 report?

15 A. I considered it. I don't know if I  
16 focused on it in the report. I focused on predatory  
17 violence.

18 Q. Sure. I'm going to ask you to define that  
19 term in a minute, but first I want to stick with  
20 drugs.

21 I have the ability to just do a word  
22 search, which I could do on the screen for you, but  
23 when I look for the word "drug," the only time it  
24 comes up other than in reference to your general  
25 background or papers that you -- papers that you

1 might cite, so the only sort of case-specific  
2 references to drugs are in the bullet points on  
3 page 5 where you say -- echoing Ms. Wynn that TPI  
4 had drug- and crime-free lease provisions and  
5 routine vacant unit checks for squatters/drug  
6 dealing.

7           So you can look at it too, but assume that  
8 I'm right that your report doesn't have anything  
9 explicit about considering whether there was illegal  
10 drug activity at Seven Courts, can you tell me first  
11 why your report wouldn't reflect any consideration  
12 of drug activity at Seven Courts?

13           A.     Because it's not predatory violence.

14           Q.     So did you consider whether there was  
15 evidence of drug activity at Seven Courts --

16           A.     Sure.

17           Q.     -- when forming your opinions in this  
18 case?

19                   I'm sorry. Yes, you did?

20           A.     If it was part of the police reports, then  
21 I reviewed it. Obviously some deposition testimony  
22 was given about drug activity, so, yeah, it's not  
23 like I ignored it. But, again, the analysis focuses  
24 principally on predatory violence.

25           Q.     I think you told me a minute ago that



1 under some circumstances, drug activity can be  
2 related to predatory violence.

3 Isn't that true in the field of  
4 criminology?

5 A. In the ways that I described earlier, yes.

6 Q. Did you conduct any analysis specific to  
7 this case to determine what types of drug activity  
8 were going on at Seven Courts and whether those  
9 types of drug activity were related to predatory  
10 violence?

11 A. Sure through the police reports. If it  
12 was drug involved and it led to an act of predatory  
13 violence such as robbery or carjacking, I noted it.

14 Q. Where did you note it?

15 A. It would be on the police report itself.

16 Q. Well, I'm asking actually a slightly  
17 different question which is sort of a meta question  
18 or a systemic question.

19 Did you consider in evaluating the  
20 evidence and forming your opinions in this case  
21 whether there was evidence of systematic drug  
22 problems at Seven Courts and whether any such  
23 evidence might have played a role in patterns of  
24 predatory violence at Seven Courts?

25 MR. MELCHER: Objection; form and

1 asked and answered.

2 A. Yeah, I have answered the question. Yes,  
3 I considered it, and I assessed whether and to what  
4 extent any drug activity escalated to predatory  
5 violence.

6 Q. I'm asking a different question, so I'm  
7 going to have to ask it again. I'm not asking  
8 necessarily about specific incidents and whether  
9 someone was dealing drugs and then they were robbed  
10 or other forms of escalation from drug activity to  
11 predatory violence.

12 I'm asking you whether the presence of a  
13 lot of drug activity at Seven Courts might have  
14 played a role in patterns of predatory violence at  
15 Seven Courts.

16 Did you sit down and conduct any formal  
17 analysis of the evidence from that perspective?

18 MR. MELCHER: Same objection.

19 Go ahead.

20 A. I don't know how to do that other than the  
21 police reports that I have analyzed, so yes, I did  
22 that. And if it was linked to predatory violence, I  
23 noted it.

24 Q. And why did you not include that in your  
25 expert report?

1 MR. MELCHER: Objection; form.

2 A. I don't think the drug issue was a central  
3 issue in this case unless -- there's no allegations  
4 that your clients were drug dealers, so I don't -- I  
5 don't know why it would have been central to my  
6 report.

7 Q. I want to make sure I understand what you  
8 did in this case.

9 You've told me a couple of times that when  
10 you were reading police reports, you would note  
11 whether drugs were involved in one form or another.

12 Is that what you told me?

13 A. When you asked me did I consider drugs in  
14 my assessment, if -- the consideration would have  
15 been along those lines.

16 Q. Right.

17 Did you step back and consider whether  
18 there was a pattern of drug activity at Seven Courts  
19 and whether that pattern might be related to a  
20 pattern of predatory violence at Seven Courts?

21 A. If, in fact, it existed, of course. But,  
22 again, I have already answered that question.

23 Q. Well, I don't think you have,  
24 respectfully. I think what you're telling me is  
25 that as you went through the APD reports, you made a

1 note about whether there was drug activity reflected  
2 in a particular report.

3 I'm not hearing you testify that you  
4 stepped back and took a broader look to examine  
5 whether there are overall patterns or trends of drug  
6 activity at Seven Courts and then whether those  
7 overall patterns or trends could have been linked to  
8 the patterns of predatory violence at Seven Courts.

9 MR. MELCHER: Objection; form and  
10 speculation.

11 A. That's how you do it. You analyze the  
12 police reports, which is exactly what I did. So,  
13 yes, I did do that.

14 Q. Okay. So tell me what -- did you sit down  
15 and total up all of the -- all of the APD reports  
16 that reflected drug activity?

17 A. I analyzed any reports -- I considered all  
18 the police reports. I analyzed any reports in  
19 particular that were relevant to predatory violence.  
20 The extent to which they're drug involved or not  
21 would be reflected in the report or not. And if  
22 they were, I noted it.

23 If they weren't, I don't know how you  
24 would determine that X, Y, or Z drug activity led to  
25 X, Y, or Z predatory violence unless there's some

1 notation of it in the report. Otherwise, you're  
2 just speculating.

3 Q. Would it matter to your analysis of crime  
4 conditions at a property whether there were repeat  
5 instances or recurrent instances over time of  
6 illegal drug activity?

7 A. It would depend on the nature of the  
8 activity; who it involved; the kind of drug; again,  
9 whether it was violent; whether it was predatorily  
10 violent and so forth.

11 Q. Did you conduct such an analysis of the  
12 evidence in this case?

13 A. I analyzed all the police reports for the  
14 property for the three years prior. So like I said,  
15 if they were linked to predatory violence, then I  
16 noted that.

17 Q. Yeah, I'm hearing that you made notes on  
18 pieces of paper. I'm asking what you did with that  
19 data.

20 Did you, in your mind or in writing or any  
21 way else, sit down and look at whether there were  
22 patterns of trends of recurrent drug activity at  
23 Seven Courts?

24 A. I don't think I made notes of that  
25 specific issue.

1 Q. Would it matter -- let me start that over.

2 Assume with me that the manager of a  
3 property like Seven Courts is herself involved in  
4 illegal drug activity, just assume that I'm right  
5 about that, might that involvement of management in  
6 illegal drug activity --

7 MR. MELCHER: Objection; form.

8 Q. -- affect --

9 MR. BLOCK: I'm not done with my  
10 question.

11 MR. MELCHER: All right.

12 Q. -- affect the crime conditions at that  
13 property?

14 MR. MELCHER: Objection; form and  
15 calls for facts not in evidence.

16 Go ahead.

17 And requires speculation.

18 A. Yeah, I mean, what you just said was  
19 reflected in some quite inflammatory allegations by  
20 Mr. Holt, none of which were corroborated by anybody  
21 else in the file, including former employee Maggie  
22 Fontaine, ex-security officer Hickey, there's a  
23 30-year law enforcement veteran, and Ms. Wynn  
24 herself. So I can't really answer that question  
25 because it's asking me to assume something that has

1 been contradicted by numerous deponents.

2 Q. Well, let's remember that you're not a  
3 juror so you don't get to weigh the evidence. I'm  
4 just asking you a hypothetical question because  
5 that's something as an expert you can answer.

6 Assume with me for the sake of argument  
7 that management was involved in illegal drug  
8 activity. Would that involvement by management in  
9 illegal drug activity have any influence over the  
10 crime conditions at a property like Seven Courts?

11 MR. MELCHER: Same objection.

12 A. Potentially.

13 Q. What if the Atlanta Police Department had  
14 threatened to seize Seven Courts for having  
15 recurrent illegal drug activity? Would that affect  
16 your analysis of the drug problem and crime  
17 conditions at Seven Courts?

18 MR. MELCHER: Same objections.

19 A. You're talking about seizing the property  
20 because of drug dealing?

21 Q. Yes.

22 MR. MELCHER: Same objection.

23 A. Is that a fact in evidence? I don't think  
24 I have ever seen that before.

25 Q. Well, I think we have established that

1 TPI's lawyers didn't show you all the evidence.

2 MR. MELCHER: That --

3 Q. Just assume with me --

4 MR. MELCHER: Aaron, no.

5 Q. Let me --

6 MR. MELCHER: No. That is  
7 objectionable, and I request that you withdraw that  
8 and restate.

9 MR. BLOCK: I will withdraw my  
10 editorialization. I shouldn't be paying you back for  
11 your speaking objections like that.

12 MR. MELCHER: I'm not making speaking  
13 objections; they would be four paragraphs long. I'm  
14 simply stating grounds. I'm doing what the federal  
15 courts require. I'm only laying out grounds.

16 But I resent the continuing --

17 Q. Doctor --

18 MR. MELCHER: -- implications that we  
19 have, you know, withheld evidence either from you or  
20 a witness or whatever.

21 Q. Dr. Jacobs, assume with me for the sake of  
22 argument that the Atlanta Police Department or the  
23 City of Atlanta, acting through the police  
24 department, had threatened to seize Seven Courts for  
25 recurrent drug activity on the property.



1           Would that affect your analysis of crime  
2           conditions at Seven Courts?

3                   MR. MELCHER: I'm just going to object  
4           and point out that discovery is closed and there has  
5           been no suggestion whatsoever to date that that was  
6           even a possibility.

7                   Subject to that objection, if you  
8           understand the question, you can answer.

9           A. I don't know the answer to that question.  
10          I'm not sure.

11          Q. Why are you not sure?

12          A. Because I'd need to see the specific  
13          allegation that you're making and the substance of  
14          it, the evidence behind it. These are very  
15          inflammatory allegations that you're making, so I  
16          would have to really analyze that carefully if that  
17          was, in fact, true.

18          Q. And just so we're all clear, that's not  
19          something you analyzed in the context of this case,  
20          is it?

21                   MR. MELCHER: Objection; form.

22          A. I have seen no evidence that the Atlanta  
23          Police Department was about to seize Seven Courts  
24          for drug dealing.

25          Q. And I think what you're telling me is that

1 if there was such evidence, that's something you  
2 would want to consider and study carefully to see  
3 how it affected your opinions?

4 MR. MELCHER: Objection; form,  
5 mischaracterizes testimony.

6 A. I don't know. I mean, again, I reviewed  
7 all the available discovery provided to me. That's  
8 all I can say.

9 Q. Let me turn back to your report. I want  
10 to look at paragraph 7. And paragraph 7 is where  
11 you describe your, quote, professional outreach with  
12 numerous business and/or private individuals on  
13 issues of crime analysis, security, guard duties and  
14 deployment, crime prevention posturing, and/or crime  
15 deterrence.

16 And then you describe those entities to  
17 include a supermarket conglomerate, a hotel chain,  
18 fast-food restaurants, and two private sector  
19 property management and development companies that  
20 oversee more than 40,000 apartment units in at least  
21 20 states.

22 I just want to call your attention to  
23 that, Dr. Jacobs. You say at the end of paragraph 7  
24 that you, quote, catalogued specific techniques for  
25 establishing an adequate crime prevention posture as

1 well as the scientific/empirical basis for those  
2 techniques. This outreach is based on the same  
3 methodology I applied in the present case.

4 Do you see that in paragraph 7 of your  
5 report?

6 A. Yes.

7 Q. Okay. And so what I understand you to be  
8 saying in a nutshell in paragraph 7 is that the --  
9 for crime identification or, really, crime  
10 prevention posture framework and opinions that  
11 you're offering in this case are the same as those  
12 that you offer to private clients who consult you  
13 outside of litigation.

14 Is that a fair read of what you're trying  
15 to say in paragraph 7?

16 A. I would say that, yeah, the same  
17 methodology that I use inside these cases is the  
18 same methodology and findings and studies that I  
19 would convey outside of litigation, yes.

20 Q. And do you still have -- where -- let me  
21 ask you, where did you catalogue specific techniques  
22 for establishing an adequate crime prevention  
23 posture as well as the scientific/empirical basis  
24 for those techniques?

25 A. So that's everything in the report, like

1 SCP, CPTED, which is C-P-T-E-D, you know all the  
2 crime pattern analysis, the camera research, the  
3 lighting research, the guard research, the policing  
4 research. That's all the same. That doesn't  
5 change.

6 Q. So I guess I read your paragraph 7 a  
7 little differently. When I read you to say that you  
8 catalogue specific techniques for establishing an  
9 adequate crime prevention posture, I'm understanding  
10 you to be saying that you catalogued in the sense of  
11 you wrote down for your consulting clients what an  
12 adequate prevention posture would be.

13 Is that what you're trying to say here?

14 A. I would say it's typically more verbal,  
15 these discussions with these organizations or  
16 individuals, where I describe -- typically I don't  
17 provide a written document per se. It's more of a  
18 conversation dialogue with these individuals or  
19 businesses.

20 Q. So if a supermarket conglomerate with over  
21 \$2 billion in annual revenues or a hotel chain with  
22 assets over a billion dollars wants to engage you as  
23 a consultant, you're telling me that you just give  
24 them security advice verbally and you don't share  
25 with them any kind of written work product they can

1 use to shape their organization security prevention  
2 posture?

3 A. No.

4 MR. MELCHER: Objection; form.

5 A. If that's the -- that's a different  
6 question. If they requested that, I absolutely  
7 would provide it. But typically that's not the  
8 format of these consultations. The format is  
9 educating them on crime analysis, crime deterrents,  
10 crime prevention, the limits of lighting, the limits  
11 of gating, the limits of fencing, the limits of  
12 guards, and whether or to what extent they need  
13 these things based on their pattern.

14 Now, if they hire me specifically to, you  
15 know, do a -- for example, a security vulnerability  
16 assessment and give them specific -- specific  
17 tactics that I would recommend, then I would provide  
18 that in writing. That's not typically what that  
19 paragraph refers to. These are more consultations,  
20 dialogue, interactions that are separate from some  
21 sort of formal written document.

22 Q. Have you in the last few years -- let's  
23 limit it to the last, you know, four years: Have  
24 you ever created written documents for some of these  
25 private clients of yours to advise them on security

1 prevention?

2 A. In terms of a formal written document,  
3 probably not. These would be more discussions,  
4 advise and counsel, as opposed to a written  
5 document. But I just can't recall if it involved  
6 beyond that, at this point.

7 Q. Are these fairly minor engagements for  
8 you?

9 A. I'm not sure what you mean about that. I  
10 mean, I wouldn't call them minor, especially to the  
11 people asking me. But this is part of my  
12 professional outreach as a criminologist. You know,  
13 I consider it one of the three prongs of my job as a  
14 criminologist, which is service.

15 So if they hired me separately from that  
16 to do -- you know, provide them a formal written  
17 document, then I certainly would consider doing  
18 that. But this is -- this is a little different  
19 from that.

20 Q. Tell me then what kind of -- tell me about  
21 the form this outreach takes because the way you're  
22 describing it sounds like it's fairly brief and  
23 informal.

24 A. Well, it depends. Like, I have gotten  
25 calls from entities that, you know, want to do some

1 sort of phone conference where we talk about  
2 security measures, crime patterns, the relevance of  
3 lighting, cameras, and guards. There's other  
4 contacts -- frankly, a lot of my contacts are  
5 probably made from litigation, and then the advice  
6 and counsel would extend from there. So that's how  
7 they come to know who I am. I hope that answers  
8 your question.

9 Q. Well, let's just go specifically here.  
10 Let's start with the supermarket conglomerate  
11 reporting over \$2 billion in annual revenues.

12 What did you do for them?

13 A. So I met with their risk management  
14 personnel, I met with their legal team, and I  
15 discussed all the things that I'm describing to you  
16 today and whether and to what extent they needed to  
17 implement these things at their various stores. So  
18 that would be an example of what I did in that  
19 particular case.

20 Q. And did you give them any kind of written  
21 description of the security measures that they  
22 should consider or employ?

23 A. I don't recall giving them a written  
24 description, no; it was an in-person meeting.

25 Q. What about that hotel chain reporting

1 assets over a billion dollars, what did you do for  
2 them?

3 A. Same thing.

4 Q. Just an in-person meeting with no  
5 substantive written documentation of your  
6 recommendations?

7 A. Well, they -- I think they wrote a bunch  
8 of things down, but I didn't provide them something  
9 written.

10 Q. How about the Fortune 1000 fast-food  
11 restaurant corporation --

12 A. That was a --

13 Q. -- that recently posted --

14 (Simultaneous speaking.)

15 A. Yeah, that was -- that was following a  
16 homicide at a fast-food restaurant. And I -- I  
17 believe it was a telephonic meeting between the  
18 legal representation and the risk management of the  
19 company following that litigation.

20 Q. And just so I understand, these  
21 engagements, are these -- were you retained as a  
22 litigation consultant or expert or -- like, in other  
23 words, were you assisting with the defense of the  
24 case or was this general business advice you were  
25 providing?



1           A.     Well, like I said earlier, this would have  
2     been general business advice and counsel following  
3     retention. And so it was separate from the  
4     retention but that's how they got to know who I was.

5           Q.     And how about the two private sector  
6     property management and development companies that  
7     oversee more than 40,000 apartment units, what did  
8     you do for them?

9           A.     Same thing. So that was, again, I  
10    believe -- this is a while ago, but I think that was  
11    telephone conference with the risk manager and I  
12    think -- I think the representative of the apartment  
13    ownership group, but it has been a while, but again,  
14    same kind of stuff that I have already described  
15    like when do you need a guard? How do you know you  
16    need a guard? What kind of guard do you need?  
17    What -- how does the crime pattern inform you of the  
18    kind of guard you need and when you need to deploy  
19    them? How do you determine if your property is a  
20    hot spot? How do you to determine if your property  
21    is a hot spot only on specific burning times? To  
22    what extent should cameras be implemented at your  
23    property? To what extent do cameras have a violence  
24    prevention effect? To what extent does lighting  
25    have a violence prevention effect? To what extent

1 do you need to take specific measures at your  
2 property that you're not engaging in to make your  
3 property safer?

4 So these are all the things that -- and  
5 many more -- that would have come up in these  
6 interactions in this consultation. So I hope that  
7 answers your question.

8 Q. Let's look at paragraph 8 where you  
9 describe your multi-year term as chair of the  
10 University's Safety and Security Council. And the  
11 gist of this paragraph, as I understand it, is that  
12 the UT Dallas has a security plan and you were  
13 involved with developing and implementing the  
14 security plan. Is that fair?

15 A. Well, the -- so I served a multi-year term  
16 as the chair. The plan was largely in place. At  
17 the point that I came on board the council, these  
18 are essentially periodic meetings to revisit  
19 security-related issues that may or may not be  
20 encompassed by the plan.

21 But the council itself was tasked with  
22 developing, implementing, and evaluating the plan,  
23 so that's what the council did. Obviously we worked  
24 in tandem with the UTD Police Department, with  
25 environmental health and safety, with the emergency

1 management, with facilities planning, and so forth  
2 to -- as a product of these various meetings.

3 Q. I'm going to ask you about that plan a  
4 little bit later.

5 If we turn -- actually, you've used some  
6 terms in your deposition today that you use in your  
7 report, and I think it would make sense for us to  
8 just define them now so that I'm on the same page  
9 with you when I hear you use a term.

10 So one of the terms that you use in your  
11 report is "foreseeability," correct?

12 A. Can you specify the paragraph?

13 Q. Well, sure. Let me put that -- yeah. So  
14 you say -- well, in paragraph 11, you say that you  
15 have provided continuing legal education seminars to  
16 address topics like crime foreseeability and others.

17 And in -- that actually might be the only  
18 time you use the word "foreseeability" other than  
19 some general references about foreseeability. But I  
20 do think that you use concepts like foreseeability  
21 in your report when you say that there was -- there  
22 was no -- that TPI didn't have sort of advanced  
23 warning of this incident.

24 So let's do a couple things: Do you in  
25 this case have an opinion about whether any of the

1 attacks on the Diaz family was foreseeable by TPI?

2 MR. MELCHER: Objection; form.

3 A. I don't think I'm offering foreseeability  
4 opinions in this case. It's really -- the opinion  
5 focuses on the reasonableness of the security  
6 measures relative to the risk.

7 Q. And why do you have -- why do you not have  
8 a foreseeability opinion in this case?

9 A. Probably in discussions with Mr. Melcher  
10 that this was the focus of my opinions. I think  
11 that was the core issue in the case is was -- were  
12 the measures -- were the security measures in place  
13 at the time of the incident adequate and reasonable  
14 relative to the risk. So that's how I looked at the  
15 scope of my inquiry.

16 Q. Well, wouldn't that inquiry require you to  
17 identify what the risk was?

18 A. Right.

19 And I did, I looked at the police reports  
20 to assess whether and to what extent, for example,  
21 an armed security patrol, a dedicated, fixed, armed  
22 security patrol was necessary at the property on  
23 July 22, 2021. And so that's part of what I did,  
24 yes.

25 Q. Yeah, I'm trying to understand here

1 because it seems to me, like, if you're -- what I  
2 hear you saying is that you're trying to measure the  
3 existing security measures at TPI or at Seven Courts  
4 against the risk of what happened to the Diaz  
5 family.

6 And so it seems to me like -- I'm  
7 wondering how you can evaluate whether measures are,  
8 you know, appropriate relative to a risk without  
9 having a sense of what the risk is. So maybe you  
10 can explain that for me conceptually.

11 MR. MELCHER: Objection; form.

12 A. Like I said earlier, I assessed the risk  
13 of predatory violence. The pattern is described in  
14 my report, paragraph 24, and 25, and 26, 27, 28. So  
15 I did assess the risk.

16 And, you know, the analysis focused on  
17 whether, you know, a dedicated armed security guard  
18 was needed at the property on the night in question.  
19 In my opinion, the pattern did not justify it.

20 Q. And so here is what I'm trying to get at  
21 is -- and we'll go through your rationale in some  
22 more detail, but just at the conceptual level here,  
23 I'm trying to understand how you could measure the  
24 adequacy of measures against the risk without having  
25 an estimate of risk.

1           A.     I think I just answered the question. I  
2     mean, I did assess the risk and it is part of the  
3     opinion.

4           Q.     Okay. So tell me then how an assessment  
5     of the risk differs from an assessment of whether a  
6     violent crime such as the Diaz family experienced is  
7     foreseeable.

8                     MR. MELCHER: Objection; form.

9           A.     It's a different inquiry.

10          Q.     Well -- okay. So explain to me what's  
11     different about an inquiry into whether the attack  
12     was foreseeable as opposed to the risk that the  
13     attack would happen.

14          A.     Well, I'm not sure how to articulate that  
15     as I sit here, but like I said, my understanding is  
16     that the nature of my inquiry was to assess whether  
17     the security measures in place at Seven Courts were  
18     adequate and reasonable relative to the risk.

19                     So obviously the risk I focused on was  
20     predatory violence, the extent to which property  
21     crime escalated the violent crime, the extent to  
22     which Seven Courts had notice that this crime was  
23     going to happen. But that's not foreseeability per  
24     se; it's whether the measures that they had in place  
25     were adequate and reasonable.

1 Q. Okay. So you have told me that you do not  
2 have what you understand to be a foreseeability  
3 opinion in this case. Is that fair?

4 A. I think that's fair.

5 Q. But you do have an opinion about the risk  
6 or likelihood of whether the Diaz family would  
7 experience what actually happened to them, a violent  
8 armed robbery in July 2021; is that what you're  
9 telling me?

10 MR. MELCHER: Objection; form.

11 A. No. No. It's -- once again, it's were  
12 the measures listed in my report adequate and  
13 reasonable relative to the pattern of predatory  
14 violence leading up to this incident.

15 Q. Okay. You mentioned notice a minute ago.

16 Do you have an opinion in this case about  
17 whether TPI had notice that an attack on the Diaz --  
18 well, really doesn't have to be on the Diaz family,  
19 so let me back up and start that question over.

20 Do you have an opinion in this case about  
21 whether TPI had notice that tenants at Seven Courts  
22 in July of 2021 might be at risk from a violent or  
23 predatory crime?

24 A. Do I have evidence that they had notice?

25 Q. I'm asking you -- well, I'm going to first

1 ask if you have an opinion about whether TPI had  
2 notice.

3 A. I don't think I have an opinion on that.

4 Q. And why not?

5 A. I don't think I was asked to offer that  
6 opinion.

7 Q. So if you go, Dr. Jacobs, to page 11 of  
8 your report and you look at paragraph 42, which is  
9 your "in closing" paragraph, the second sentence  
10 reads, Seven Courts had no notice of imminence of  
11 harm.

12 So I read that to be an opinion from you  
13 as to whether Seven Courts had notice of imminence  
14 of harm. I'm just reading it literally.

15 A. Imminence of harm is a criterion in  
16 forensic criminology which asks whether, to what  
17 extent there's clues at or near the time of the  
18 incident that the property knew about, didn't react  
19 to, and had they known and reacted to them, they  
20 could have done something to prevent the incident.

21 So there's no evidence that, for example,  
22 Latoya Wynn saw this criminal lurking on the  
23 property that day, saw him casing the property, saw  
24 him, you know, sizing up these -- your clients for a  
25 robbery. There's no evidence about any of that.



1 And so imminence of harm gets at the  
2 situational cues at or near the time of the incident  
3 that would possibly have given the landlord or the  
4 defendant notice that something really bad was about  
5 to happen and then they did nothing to despite that  
6 notice. So there's no evidence of that.

7 Q. And I want to understand what you mean.

8 When you offer this imminence of harm  
9 opinion, are you talking about notice in the moments  
10 or hours before the attack?

11 A. Yeah, imminence of harm typically focuses  
12 on the window of time close to the incident itself  
13 to see if the defendant had notice that something  
14 was about to happen.

15 Q. And in this case, what kind of window are  
16 you using when you offer this opinion about whether  
17 TPI had notice of imminence of harm?

18 A. Well, I mean, in this kind of case, it  
19 would be, you know, in the moments at or near the  
20 time of the incident.

21 Q. And so it's what I'm hearing from you is  
22 that you're not offering an opinion about whether  
23 crime at Seven Courts in the days, weeks, months,  
24 years prior to the July 2021 attack created notice.  
25 Is that fair?

1 MR. MELCHER: Objection; form.

2 A. I don't think I'm offering an opinion on  
3 that issue.

4 Q. Okay. Just so I understand and because  
5 there was an objection, do you have an opinion in  
6 this case about whether crime reported at Seven  
7 Courts in the three years prior to the July 2021  
8 attack on the Diaz family would have put TPI on  
9 notice of the risk of what actually happened to the  
10 Diaz family?

11 A. I don't think I'm offering an opinion on  
12 that issue.

13 Q. One phrase that you have used in this  
14 deposition and in your report is "reasonable" and  
15 you have also used the phrase "adequate." And just  
16 to keep it simple, are you sort of using  
17 "reasonable" and "adequate" as more or less  
18 synonyms?

19 A. I'm not sure. I think they mean slightly  
20 different things. I like to use them both. But I  
21 have to really think about the distinction between  
22 the two.

23 Q. Okay. Well, why don't you define them  
24 both for me.

25 What does "reasonable" mean as you use it

1 in your opinions in this case?

2 A. "Reasonable" typically means, you know, if  
3 other regular people were facing the same or similar  
4 circumstances, would they have acted in the same or  
5 similar manner. That's kind of how I look at  
6 "reasonable."

7 And then "adequate" is more do the  
8 measures -- do the measures in place, are they  
9 generally consistent with practices associated with  
10 crime prevention approaches specified in the  
11 peer-reviewed scientific criminology literature.

12 Q. Okay. So let's stick with "reasonable"  
13 for a minute, and I thank you for giving me the  
14 definition that you're using in this case.

15 Where do you get the definition of  
16 "reasonable" that you're using in this case?

17 A. I just gave it to you. I don't know.  
18 It's something that...

19 Q. From where do you derive it? That's what  
20 I'm asking you.

21 A. Just my understanding of the term.

22 Q. Based on what?

23 A. Just, I suppose, understanding of the  
24 English language. I mean...

25 Q. Well, I mean, we all use the word

1 "reasonable" in different facets of our life, but  
2 you're here as an expert testifying in litigation.  
3 And so I'm trying to ask you how you -- how you  
4 derive the definition of "reasonable" that you use  
5 to frame your opinions in this case.

6 A. It's probably from my reading and training  
7 in forensic criminology.

8 Q. Is it a legal standard that you think  
9 you're using when you say "reasonable"?

10 A. I would say it's more of a term relevant  
11 to forensic criminology and the various literature  
12 that examines the concept of reasonableness in the  
13 context of that literature, a lot of which I  
14 provided you through the ShareFile link.

15 Q. And so is there a definition of  
16 "reasonable" in the peer-reviewed literature that  
17 people in your field all use and apply to mean the  
18 same thing?

19 A. I would have to point you to the  
20 literature in forensic criminology. I can't cite a  
21 chapter and verse as I sit here.

22 Q. And how do you, to form your opinions in  
23 this case, evaluate whether TPI's conduct is  
24 reasonable?

25 A. From the standpoint of a criminologist and

1 whether the violent crime pattern would have  
2 justified security measures that were not in place  
3 at the time of the incident.

4 Q. And how do you perform that inquiry?

5 A. Through the methods I described earlier.

6 Q. The triangulation and analytic induction  
7 and content analysis?

8 A. Domain analysis, crime pattern analysis,  
9 and all the various sub-techniques, yes.

10 Q. And how, then -- specifically how do you  
11 arrive at a determination based on those techniques  
12 whether security measures are or are not reasonable?

13 A. Based on -- I think I just answered that  
14 question. It's based on the -- the content  
15 analysis, the domain analysis, the crime pattern  
16 analysis, and whether and to what extent those --  
17 the data suggests that the property warranted  
18 security measures that it did not have in place on  
19 the night in question.

20 Q. And I appreciate that you're giving me the  
21 sort of summary answer. I'm trying to ask you the  
22 detail question.

23 How do you use these techniques you've  
24 referenced to reach a specific conclusion about  
25 whether security measures are reasonable?

1           A.     Well, security measures in general will be  
2     determined by the data points that are listed in my  
3     report as they relate to whether those data points  
4     are consistent with the peer-reviewed criminological  
5     guidelines in crime prevention such as situational  
6     crime prevention and crime prevention through  
7     environmental design. So that's a simple comparison  
8     exercise that I did in my report.

9           The armed security issue is a more narrow  
10    issue of, you know, was -- was the property, for  
11    example, a violent crime hot spot at or near the  
12    time of the incident, and if it was a violent crime  
13    hot spot, would it have justified a particular  
14    security deployment.

15          And so the hot spot analysis, that comes  
16    directly from -- from crime pattern analysis, which  
17    I have described earlier, which is also found in  
18    methodology that police departments, including APD,  
19    use all over the country called Compstat, which is  
20    essentially you're analyzing crime by address, by  
21    type of occurrence, by time of occurrence, by  
22    victim-offender relationships, by motive, by weapon  
23    involvement, so on and so forth to determine, you  
24    know, whether a ramped-up security presence is  
25    justified.

1           So I did all that and, you know, my  
2     report, paragraph 24, essentially describes how in  
3     the 11 months leading up to the subject incident, I  
4     believe there's only one nighttime act of predatory  
5     violence or predatory gun crime in the 11 months  
6     preceding the incident.

7           So based on a standard hot spot analysis  
8     that really virtually any police department would  
9     do, if they looked at a property and said this  
10    property hasn't had a single nighttime predatory gun  
11    crime in almost a year, would we recommend, for  
12    example, a dedicated, fixed policing presence at  
13    this property every night of the week, seven days a  
14    week, absolutely not. They would never do that.

15          And that's the methodology that I use is  
16    the methodology used by police departments around  
17    the country, security experts on hot spot analysis  
18    which is based on crime pattern analysis and the  
19    various variables involved therein.

20                   (Off-the-record conversation.)

21          Q.     Another term that you use in your report  
22    is "standard of care."

23                   What do you mean by "standard of care"?

24          A.     Can you show me the paragraph?

25          Q.     On page 6 of your report, paragraph 23,

1 you say -- this is in the fourth line down, This is  
2 not the expected standard of care in the security  
3 industry for a crime of this type with this fact  
4 pattern.

5 So if you use it in your report, what do  
6 you mean by "standard of care"?

7 A. What paragraph again?

8 Q. 23.

9 A. Okay. So in other words, is there any  
10 security organization, any national written standard  
11 that suggests or dictates that a guard should have  
12 been posted by the plaintiffs' unit at or near the  
13 time of the incident. There's no standard in the  
14 country that I'm aware of that says anything close  
15 to that.

16 Q. Do you really think that our theory in  
17 this case is that an armed guard should have been  
18 right outside the Diaz family's unit and not moving  
19 anywhere else?

20 MR. MELCHER: Objection; form.

21 A. I can't speak for your approach to this  
22 case.

23 Q. Come on. Okay. I will just tell you  
24 our -- I know you don't actually think that's our  
25 theory. I'm not sure why you shot at that in your



1 report.

2 Assume that our theory is that an armed  
3 guard should have been present at Seven Courts  
4 during the hot summer evenings of July 2020.

5 A. Where? By building G?

6 Q. So let me --

7 A. Building D? By the leasing office? By  
8 the pool if there is a pool?

9 Q. Hold on. It's not -- okay.

10 All right. Let's just assume that we  
11 don't think every unit should have its own armed  
12 guard right by the door like a bank safe. What do  
13 you mean -- actually, we can even take it out of the  
14 context of -- not the case but of the specifics  
15 there.

16 You use a term "standard of care" in your  
17 report. What do you mean by "standard of care"?

18 A. I already answered that question.

19 Q. So I understand you to be saying "standard  
20 of care" means published standards by professional  
21 bodies or organizations or institutions such as  
22 what?

23 A. ASIS, A-S-I-S; IAPSC; American Society of  
24 Criminology; Academy of Criminal Justice Scientists;  
25 ANSI, A-N-S-I. I mean, some sort of professional

1 organization that says, here is a standard and  
2 here -- it's a written standard and this is what we  
3 expect. That's a standard of care.

4 Q. And you refer in that same sentence to the  
5 security industry.

6 What do you mean by "security industry"?

7 A. So that would be one of the  
8 security-related organizations such as ASIS or  
9 IAPSC.

10 Q. I want to -- I want to understand the role  
11 that a written standard, as you just described it,  
12 plays in you forming your opinions in this and other  
13 cases where you're a litigation consultant.

14 Do you require there to be a written  
15 standard by one of these professional bodies before  
16 you testify that a particular security measure is  
17 the standard of care?

18 A. Do I require that, no. But that's --  
19 that's one of the points is these organizations may  
20 issue guidelines or something of that nature but  
21 they're not -- they're guidelines and that's it.

22 And so given that it really has to be  
23 justified -- for example, an armed security presence  
24 really has to be justified, you know, by a pattern  
25 of predatory violence that suggests the property

1 really absolutely needed a dedicated, fixed presence  
2 on the night in question.

3 Q. Another term that you use -- and this is  
4 on page 5, footnote 6, is "customs and practices."  
5 And you're referring to "customs and practices" for  
6 certain security measures among similar type  
7 properties in the same general area.

8 What do you mean by "customs and  
9 practices"?

10 A. I think it's pretty self-explanatory what  
11 other folks or entities are doing relative to these  
12 same issues.

13 Q. And I want to go through these terms and  
14 understand if these are terms that you use in your  
15 academic work, whether it's research or teaching  
16 students.

17 You research or teach your students about  
18 the standard of care as you have defined it?

19 A. Depends what the class is about.

20 Q. In what class would you teach your  
21 students about the standard of care?

22 A. If we're talking about violent crime  
23 prevention, that issue might come up.

24 Q. How would it come up?

25 A. For example, when we discuss robbery risk

1 at convenience stores, one of the issues we talk  
2 about is whether, for example, two clerks is a  
3 standard of care in the convenience store industry.  
4 That would be one example.

5 Q. All right. Let's look at -- excuse me --  
6 paragraph 16 of your report.

7 A. You say 16?

8 Q. Uh-huh, paragraph 16. Starts at the  
9 bottom of page 3. This is where you describe the  
10 materials that informed this report. So you have  
11 the complaint, the answer, TPI's responses to  
12 plaintiffs' first set of discovery requests.

13 And are you referring to the actual, like,  
14 written litigation document that contains TPI's  
15 responses where they say objection this, that, or  
16 the other thing and then the answer?

17 A. Whatever was provided to me that's listed  
18 as that file name is what I'm referring to.

19 Q. Okay. Then we have that in the file.

20 There's the APD reports, and the attorney  
21 summary of APD reports, the 911 call, the  
22 plaintiffs' responses to TPI's discovery requests,  
23 some depositions, and you have testified that there  
24 were additional depositions you reviewed after your  
25 report.

1           So tell me about how you reviewed the  
2       depositions in this case. What did you do?

3           A. I read every page and absorbed the  
4       material. I'm not sure how to answer that.

5           Q. Did you take notes?

6           A. I took some notes in preparation for the  
7       opinions today. If that's what you mean, yes.

8           Q. That's the notes that we have marked as  
9       Exhibit 2 --

10          A. Yes.

11          Q. -- and that you brought today?

12          A. Correct.

13          Q. So your testimony is you read every page  
14       of every deposition that you were provided in this  
15       case?

16          A. Correct.

17          Q. And then you refer to your site inspection  
18       and area canvass and interview with the property  
19       manager.

20                So did you review -- so setting aside the  
21       APD, the Atlanta Police Department, reports, did you  
22       review internal incident reports generated by TPI  
23       employees?

24          A. Yes. If they were provided in the file, I  
25       reviewed them.

1 Q. And so I think what you mean by provided  
2 in the file is incident reports that were attached  
3 as exhibits to depositions you were provided.

4 Is that what you mean?

5 A. Either that or Mr. Melcher's responses to  
6 requests for production.

7 Q. Well, so when I look at what was contained  
8 in your file, I don't see a collection of incident  
9 reports at all, frankly, other than what might be  
10 referred to as an exhibit in a particular  
11 deposition.

12 So what I'm asking you is did you get a  
13 stack or ask for a stack or receive a stack of all  
14 of the incident reports for Seven Courts, to your  
15 knowledge?

16 A. I asked for all -- to my recollection, I  
17 asked for all internally generated incident reports.  
18 And so whatever was provided, was provided.

19 Q. Did you review other than what might have  
20 been marked as an exhibit in deposition, did you  
21 review text messages from the TPI employees and  
22 security contractors when they were texting about  
23 crime conditions at Seven Courts?

24 A. I don't think anything other than the --  
25 what was provided as exhibits or mentioned or

1 referenced as exhibits to the depositions. I don't  
2 recall the specific file names along those lines.

3 Q. Would it be your typical practice to ask a  
4 defendant, in particular a defendant like TPI that  
5 owns and operates or manages a property, to share  
6 with you all of the incident reports during the  
7 reference period?

8 A. Yes.

9 Q. And why would you want to see those  
10 incident reports?

11 A. Well, especially as it relates to violent  
12 crime, I want to see if there's anything being  
13 reported internally that was not being reported to  
14 the police department.

15 Q. Because in order for you to conduct a  
16 reliable analysis of crime conditions at the  
17 property, you need all the data, not just what's in  
18 the police department reports, correct?

19 A. As it relates to predatory violence, I  
20 would tend to agree.

21 Q. All right. So paragraph 18 of your report  
22 is where you describe content analysis, which you  
23 have testified is a technique or method you used in  
24 this case, correct?

25 A. Among several, yes.

1 Q. And what forms of evidence or information  
2 do you perform content analysis on?

3 A. All the depositions, the relevant  
4 exhibits, the interrogatory answers, responses to  
5 requests for production, depositions, police  
6 reports, internal reports if available, the totality  
7 of the file materials is what you do the analysis  
8 on.

9 Q. And how do you perform a content analysis  
10 on those file materials?

11 A. I think I specified that in my subpoena  
12 response where I develop axial codes, selective  
13 codes; and then ultimately before I'm deposed or  
14 within the report itself, I will convert those codes  
15 into themes or concepts that drive the report or my  
16 deposition notes.

17 Q. In paragraph 19, you refer to analytic  
18 induction. Can you tell me how you use the  
19 technique of analytic induction to reach your  
20 opinions in this case?

21 A. Sure. That's where you compare all the  
22 data points that you have developed from the  
23 discovery material to see whether and to what extent  
24 they're consistent with practices and crime  
25 prevention that are peer-reviewed in criminology



1 such as situational crime prevention and crime  
2 prevention through environmental design.

3 You also compare the data points to other  
4 relevant literatures in the field of, like, for  
5 example, lighting, cameras, uniform patrol, to see,  
6 again, whether and to what extent the data points --  
7 how those data points line up with the peer-reviewed  
8 scientific literature in criminology.

9 So analytic induction is really where  
10 you're taking your data -- in this case, the data  
11 come from the discovery materials -- and you're  
12 trying to assess whether the data and the data  
13 points are consistent with the peer-reviewed  
14 findings in criminology on these relevant areas.

15 Q. Can you point me to anywhere in your  
16 report where you walk through a process of analytic  
17 induction?

18 A. 25, doesn't warrant a roving, armed  
19 security patrol, that's based on hot spot analysis,  
20 crime pattern analysis, which is analytic induction.

21 26, 27, 28, that's all about the property  
22 crime, violent crime, escalation phenomenon, that's  
23 all analytic induction. Comes right from the  
24 literature that's cited.

25 The functional limits of crime prevention,

1 which is paragraphs 29 and 30, and then all the  
2 supporting material, that's analytic induction.

3 The -- paragraphs 34 -- paragraph 34 about  
4 gating and fencing a violent crime, that's analytic  
5 induction.

6 Paragraph 40, surveillance cameras, 41,  
7 lighting, that's all analytic induction as well. So  
8 it's peppered throughout the report.

9 Q. And you refer in paragraph 20 to  
10 triangulation, and you say that triangulation is a  
11 technique that you could use to test or falsify a  
12 factor theory in issue, right?

13 A. Right, because you're using multiple data  
14 sources to establish the -- verify a conclusion  
15 about a fact in issue. So, for example, you're not  
16 just reading police reports, you're not just reading  
17 depositions, you're not just reading emails and  
18 correspondence, you're not just cherry-picking one  
19 data source, you're looking at everything, and  
20 you're determining the extent to which there's  
21 alignment in the data on a particular issue.

22 When there's not alignment, then you may  
23 have a factual dispute such as the one you were  
24 raising earlier about Holt saying that Wynn is a  
25 drug dealer and everybody saying that she's not. So

1 that's a factual dispute. The jury will have to  
2 resolve that.

3 Q. So on paragraph 21, you say, Based on my  
4 review of all the discovery material in this matter,  
5 as well as the site inspection, interview with the  
6 property manager, and area canvass, and then you  
7 offer your considered opinion about whether Seven  
8 Courts had an adequate and reasonable crime  
9 prevention posture.

10 You list as the adequate and reasonable  
11 crime prevention posture all of the bullet points  
12 that come straight out of your interview with Toya  
13 Wynn, correct?

14 A. Well, no, it's the interview with Toya  
15 Wynn, my site inspection, the available discovery  
16 material. Everything that was part of the case is  
17 part of that -- part of that paragraph.

18 But there are some things that were not --  
19 like, for example, the HandyTrac system, you know, I  
20 would have only known that by asking her. I think  
21 she even showed me the system.

22 Q. Did you ask whether TPI had any formal  
23 security policy for Seven Courts?

24 MR. MELCHER: Objection; form.

25 A. You asked in your interrogatory, so no, I

1 did not replicate the question.

2 Q. And the answer is no, TPI does not have a  
3 formal security policy for Seven Courts, correct?

4 A. Any what?

5 Q. Any formal security policy for Seven  
6 Courts.

7 A. Right, there's no formal -- quote/unquote,  
8 formal policy, but the data points are consistent  
9 with -- the data points listed in my report that I'm  
10 talking about today are entirely consistent with a  
11 crime prevention posture, which is -- it may not be  
12 a formal written security plan, but on some level,  
13 it's a functional proxy for it.

14 Q. Do you think that a property like Seven  
15 Courts should have a formal written security plan or  
16 policy?

17 MR. MELCHER: Objection; form, term  
18 "think."

19 A. It should have a plan of some kind,  
20 whether it's -- whether it's written or not, I would  
21 not require that, but it should have a posture in  
22 place, which is consistent with a plan, which is  
23 what they're doing.

24 Q. Should a property like Seven Courts or a  
25 company like TPI operating a property like Seven

1 Courts undertake a formal analysis of crime at Seven  
2 Courts and in the surrounding area?

3 MR. MELCHER: Objection; time and  
4 scope.

5 A. Well, I mean, I guess there's two answers  
6 to that. As a criminologist who is interested in  
7 crime data, I'm an advocate of doing that, I'm all  
8 for that. Whether they're required to do that -- my  
9 understanding is that there's no legal duty, I  
10 guess, for any Georgia apartment complex to dig up  
11 police reports for its property, inspect them on a  
12 regular basis. That's my understanding.

13 Again, having said that, I'm a  
14 criminologist. I'm all for analyzing crime data. I  
15 think it's a good thing to do. But would I require  
16 it? I don't think I would require it but I'm an  
17 advocate of that.

18 Q. So I'm going to set aside your  
19 understanding or views about what Georgia law  
20 requires since we can all agree you're not an expert  
21 on Georgia law, right?

22 A. Correct.

23 Q. So I want to ask you your opinion -- your  
24 litigation support opinion.

25 Do you think that a company like TPI

1 operating a property like Seven Courts should  
2 undertake a formal analysis of crime at Seven Courts  
3 and in the surrounding area over a time frame of two  
4 or three years?

5 A. I'm not sure. I think I'll stick with my  
6 previous answer. I mean, it depends on the  
7 property, really. It depends on -- you said  
8 surrounding area. It depends on the area. You used  
9 the word "formal." I mean, I don't know. I mean,  
10 I'm not sure how to answer that question.

11 Q. When you were interviewing Ms. Wynn, did  
12 you ask her why TPI did not provide regular armed,  
13 overnight security at Seven Courts in the summer  
14 of 2021?

15 A. She -- I believe she told me they were  
16 moving from a regular or nightly security presence  
17 to a camera system that would have interfaced with a  
18 periodic patrol. I think that's what she was  
19 telling me.

20 But my question was, was there an armed  
21 guard at the premises on the night in question, and  
22 I believe she said they were in between -- they were  
23 in this transition point where they were moving from  
24 a guard present to a more technologically intensive  
25 security presence with a guard interface. That's

1 what I think she was telling me.

2 Q. Has there ever been -- actually, let me  
3 orient you. Let me orient you actually. So I want  
4 to actually ask you about paragraph 23. We're going  
5 to come back to paragraph 22, but looking at  
6 paragraph 23, which is primarily about the presence  
7 of a security guard, have you ever in a litigation  
8 support matter concluded that a security guard  
9 should have been present at an apartment complex?

10 A. Oh, sure.

11 Q. And what would have led you to reach the  
12 conclusion that a security guard should have been  
13 present at an apartment complex?

14 A. A very clear violent -- pattern of  
15 predatory violence that justified, for example, a  
16 dedicated presence.

17 Q. And what kind of pattern of predatory  
18 violence would justify an armed security guard?

19 A. I can't invent it out of whole cloth, but  
20 typically a pattern. You know, you're looking for,  
21 you know, instances of stranger-on-stranger violence  
22 that would have justified some sort of dedicated,  
23 fixed security presence.

24 Q. Well, give me an example, if you would, of  
25 what a pattern, in your view, would look like that

1 would justify an armed security guard.

2 A. Well, typically you're talking about --  
3 well, you look at the -- assuming that the litigated  
4 incident involves predatory violence, then you look  
5 at the reference period and you're asking whether  
6 and to what extent there are similar, recent, and  
7 frequent incidents that would have justified a fixed  
8 security presence. And so you're looking at those  
9 variables.

10 You're also looking at, obviously, time of  
11 occurrence, location of occurrence, you know, you're  
12 trying to see if there's a clear pattern that would  
13 have justified some sort of dedicated security  
14 presence.

15 Q. And I am asking you to define those  
16 variables in more detail than you're doing. So when  
17 you say that you're looking to discern a pattern,  
18 you're looking at incidents that are similar. Tell  
19 me what you mean.

20 A. Well, again, assuming that the litigated  
21 incident is predatory violence, you're looking at  
22 incidents that involve strangers, you're looking at  
23 incidents that involved serious violent crime which  
24 would be murder, rape, aggravated assault, or  
25 robbery.



1           You're looking at incidents where there is  
2 typically weapon involvement and/or serious victim  
3 injury. You're looking for incidents in which  
4 there's a clear time pattern of occurrence so that  
5 it's not only a hot spot but it's a burning time for  
6 the hot spot.

7           You're probably looking for location  
8 information. You know, for example, I look at  
9 common area occurrence versus interior of apartment  
10 occurrence. And obviously common area occurrence is  
11 something that security presence can theoretically  
12 do something about. You're looking for whether the  
13 crime was committed by somebody internal to the  
14 property or external.

15           So, you know, I can't cite you chapter and  
16 verse exactly the pattern that has to be in place to  
17 justify armed security presence, but those are the  
18 variables I would be looking at to help determine  
19 that.

20           Q.    Would you examine crime only at the  
21 subject property or would you also look at crime in  
22 nearby properties or areas?

23           A.    I'm not against looking at the area  
24 assuming the data are available from the police  
25 department. So -- but if the data are not

1 available, then you want to see the extent to which  
2 violent crime is either spilling over or migrating  
3 from the property to the area.

4 Q. What is your -- in your litigation support  
5 role, what is your customary practice toward nearby  
6 properties or areas? Is it your customary practice  
7 to investigate for crime data for nearby properties  
8 and areas?

9 A. If the data are available, I typically do  
10 like to look around. I don't think Atlanta -- I'm  
11 trying to remember. I don't think Atlanta -- I  
12 can't remember.

13 But since I wasn't offering a  
14 foreseeability opinion in this case, really what I'm  
15 looking at is what's the pattern of predatory  
16 violence at the property and does it justify  
17 security measures that were not in place on the  
18 night in question.

19 Q. I think you're telling me that the  
20 pattern -- when you're trying to discern the pattern  
21 of predatory violence, you customarily look at the  
22 subject property and you'll customarily look at the  
23 pattern of predatory violence in nearby properties  
24 as well at least when the data are available.

25 Is that a fair understanding of your

1 testimony?

2 A. It depends on the scope of my duties in  
3 the case, I would say that. So in this particular  
4 case, I was not asked to offer a foreseeability  
5 opinion. So I was asked to offer whether the  
6 security measures that were in place were adequate  
7 and reasonable relative to the risk, so it really  
8 does depend on the scope of my inquiry.

9 Q. Okay. Let's step out of this case for a  
10 minute and any limitations that may have been  
11 imposed on your analysis or that you may have  
12 understood to be imposed on your analysis.

13 When you are trying to evaluate the  
14 pattern of violence at a piece of property or the  
15 risk of violence at a piece of property, would you  
16 customarily look at crime data for adjacent  
17 properties or nearby properties?

18 MR. MELCHER: Objection; form. The  
19 retention was based on the allegations made in the  
20 suit.

21 A. Right. It depends on the scope of my  
22 inquiry. It really does depends. I think I have  
23 answered that three times now.

24 Q. The scope of the inquiry, you mean the  
25 scope of inquiry that the lawyers who retained you

1 gave you?

2 MR. MELCHER: Objection; form, asked  
3 and answered.

4 A. It's the nature of the case and what the  
5 allegations in the case are. So that may come from  
6 retaining counsel; it may come from you; it may come  
7 from the discovery. It depends on the case.

8 Q. In your academic research, do you ever try  
9 to evaluate the patterns of predatory violence at a  
10 particular piece of property or neighborhood or  
11 site?

12 A. Perhaps through my respondents that I'm  
13 interviewing, but that would be the extent of it.

14 Q. Well, I don't know that I -- maybe I  
15 didn't ask you that question the right way or I just  
16 don't understand your answer.

17 I'm trying to ask whether in your academic  
18 research you might ever focus on a particular site,  
19 whether it be an apartment complex or a housing  
20 project or a neighborhood and whether you ever try  
21 to understand the patterns of predatory violence at  
22 that site.

23 Is that something you ever do in your  
24 academic work?

25 A. I do it through the research literature,

1 but I don't -- those kind of studies -- I typically  
2 do qualitative studies based on active offenders, so  
3 that kind of research would be literature-based  
4 research as opposed to me generating the data.

5 Q. In your review of the literature when your  
6 professional colleagues in criminology are  
7 evaluating the patterns of predatory violence at a  
8 site, do they typically expand their inquiry to look  
9 at patterns of predatory violence in nearby sites?

10 A. Only typically if they want to see if the  
11 security measures at the specific site that were  
12 analyzed caused crime to displace away from that  
13 site to nearby areas. But that's typically the main  
14 reason that they would do that kind of research.

15 Q. And then shifting back to litigation  
16 support, what I think you're telling me is that you  
17 would consider crime at properties near the subject  
18 property if you understood that to be important to  
19 the case?

20 A. If there were significant pattern of crime  
21 or violent crime spilling over or migrating from the  
22 area to the property or the scope of my inquiry was  
23 much broader than it is in this case where I'm  
24 simply asked, Dr. Jacobs, are the security  
25 measures -- were the security measures in place on

1 the night in question adequate and reasonable  
2 relative to the risk.

3 So assuming that it's not those two narrow  
4 criteria, then perhaps. But it really just depends  
5 on the nature of the inquiry and the scope of my  
6 inquiry.

7 Q. So this gets back to the dilemma that we  
8 had previously. I don't understand conceptually how  
9 you can evaluate whether security measures were  
10 reasonable relative to a risk without knowing what  
11 the risk is.

12 MR. MELCHER: Objection; form.

13 Q. Can you explain that for me?

14 A. I have already told you three, four, five,  
15 maybe six times. I did assess the risk. I did it  
16 through the police reports. I went back three  
17 years, which is 1,095 days of crime data. I  
18 analyzed all the depositions, all the exhibits, all  
19 the material referenced in the file itself. That's  
20 all assessment of risk, so I'm not sure what you're  
21 saying.

22 Q. Did you evaluate the risk of crime at  
23 properties near Seven Courts?

24 A. I did not collect that data, no.

25 Q. Why not?

1           A.     I'm not sure how it would have informed my  
2     opinions in this case where this criminal  
3     essentially snuck up on the plaintiffs right outside  
4     their apartment, barged in, and robbed them. I'm  
5     not sure how crime data at some other complex some  
6     distance away would have affected that fact pattern.

7           Q.     So in your report, you refer to your  
8     analysis of what you believe are comparable  
9     properties, right?

10          A.     Well, I would say comparable to the extent  
11     that there are other apartment complexes in the same  
12     geographic area at around the same time.

13          Q.     Right.

14                 This is what you described as your area  
15     canvass?

16          A.     Yes.

17          Q.     And for your area canvass, you drove  
18     around and you looked at eight properties that are  
19     within roughly a mile of Seven Courts, correct?

20          A.     Roughly. Some may have been a little  
21     further out but roughly.

22          Q.     Yeah, if you look at paragraph 36 of your  
23     report, you say there are eight multifamily  
24     apartment complexes within approximately 1 mile of  
25     Seven Courts. And then you cite the names of them

1 in footnote 10.

2 Do you see that?

3 A. Yes.

4 Q. Why did you pick -- first of all, why did  
5 you conduct an area canvass?

6 A. I just want to see what the customs and  
7 practices are for other properties of a similar type  
8 in terms of -- not looking at convenience stores,  
9 I'm not looking at gas stations, I'm not looking at  
10 fast-food restaurants. I'm looking at other  
11 apartment complexes in the same area at around the  
12 same time.

13 And I'm asking a very simple question: If  
14 instead of living at Seven Courts, if the plaintiff  
15 lived at one of these other eight complexes, what  
16 would they have -- what would the security  
17 measures -- what would the apparent security  
18 measures have been available to them assuming they  
19 did not live at Seven Courts but lived at one of  
20 these eight other complexes within a mile of Seven  
21 Courts.

22 So did they have gates? Did they have a  
23 gatehouse? Did they have indicia of fixed security  
24 presence? Did they have a fully enclosed perimeter?

25 So it's a very simple question that tries



1 to assess the customs and practices of these various  
2 measures -- various security measures that I suppose  
3 your side is contending should have been in place.

4 Are these customs and practices, in fact,  
5 in place and do they comprise the metric in the area  
6 for security for other complexes in the same area at  
7 around the same time.

8 Q. Do these customs and practices you're  
9 trying to identify inform your analysis of what  
10 security measures are reasonable?

11 A. I think so. Right. You know, if every  
12 other complex in the radius had armed guards and  
13 gatehouses and, you know, 8-foot fences with barbed  
14 wire at the top, I mean, that would tell me that  
15 Seven Courts is maybe not doing something it needs  
16 to be doing. So, yes, it assesses my -- it informs  
17 my assessment of the material.

18 Q. Did you perform any investigation of what  
19 the crime patterns are at the eight comparator  
20 properties?

21 A. No, it was a very simple inquiry. If the  
22 person lived -- instead of Seven Courts they lived  
23 at some of these other properties, given that, you  
24 know, theoretically, you know, an armed robbery like  
25 this, I suppose, can happen to any of these other

1 tenants in any of these other properties, it's  
2 theoretically possible, I suppose, what is the  
3 security posture at these other places relative to  
4 what is in place at Seven Courts.

5 Q. How can you evaluate whether the security  
6 posture at these comparator properties is reasonable  
7 if you don't know what the crime conditions are at  
8 those properties?

9 A. I'm not doing an assessment of the other  
10 properties in terms of the reasonableness of those  
11 measures for those properties. I'm assessing  
12 whether the measures that Seven Courts has in place  
13 were reasonable relative to the customs and  
14 practices in the area. It's a completely different  
15 inquiry.

16 Q. Well, I'm not sure that's true, but what  
17 if -- what if the customs and practices at all of  
18 those other properties are deficient, would that  
19 make -- would it be reasonable for all of the  
20 companies that operate low-income housing in this  
21 part of Atlanta to just decide to have weak security  
22 practices?

23 If they all agreed or independently  
24 reached the conclusion that they should do that,  
25 would that make their security practices reasonable?

1           A.     Absolutely not. But, again, as I said  
2     earlier, if I did my canvass and it showed that all  
3     these complexes had gatehouses and armed guards and  
4     8-foot fences with barbed wire and enclosed  
5     perimeters, that obviously would look very badly for  
6     Seven Courts, and that was part of my inquiry.

7                 So it wasn't like -- the results fell  
8     where they fell, and I'm reporting them. I can't  
9     speak for these other properties. I'm just talking  
10    about if I'm Seven Courts and I looked around -- if  
11    I'm the plaintiff and I looked around for other  
12    complexes in this radius, what would I find and  
13    would Seven Courts' posture be wholly deficient in  
14    light of what everybody else was doing. It's just a  
15    very simple comparative inquiry.

16          Q.     Now, I understand your report to offer the  
17    opinion that as far as the variables you looked at  
18    for these comparator properties, Seven Courts is  
19    roughly the same in terms of, in your view, whether  
20    there's a great, whether there's indicia of armed  
21    guards and things like that. Is that fair?

22                 Roughly speaking, you're saying Seven  
23    Courts is about where the other eight properties in  
24    the 1-mile radius are?

25          A.     I would put it more that -- let's see, how

1 did I word it in my report. I would just say like I  
2 said in my report, like, more rigorous access  
3 control measures than those used by Seven Courts  
4 were not the custom and practice among other  
5 complexes in the area. It's very simple.

6 Q. Would it matter to your opinion if at  
7 these other eight apartment complexes there was a  
8 pattern of predatory violence?

9 A. Only if the lawsuit was at one of those  
10 other properties, then I would have to do that  
11 analysis.

12 Q. Well, wouldn't that -- wouldn't knowing  
13 whether the other properties that you have  
14 identified as comparators -- let me start this over.

15 If you're judging -- well, let me back up.  
16 Let me make sure I understand what I think you're  
17 trying to do here. I think what you're telling me  
18 is that you think that you have identified the  
19 custom and practice for apartment complexes in this  
20 part of Atlanta, but you're not trying to testify  
21 that that custom or practice is reasonable or  
22 adequate to deter predatory violence, are you?

23 A. Wrong. No, that's not what I'm doing.

24 Q. What are you doing?

25 A. Again, I don't know how many times I can

1 explain this.

2 MR. MELCHER: Objection; form.

3 Q. I know -- I -- let's do the part where I  
4 understand what you're saying. I understand you to  
5 be saying that you think you have identified the  
6 custom and practice in this part of Atlanta for  
7 multifamily apartment complexes, okay, based on your  
8 area canvass?

9 A. Well, the custom and practice for, for  
10 example, gates, gatehouses, perimeter enclosures,  
11 and indicia of a dedicated security presence.

12 Q. Is it your opinion that that custom and  
13 practice is adequate and reasonable to deter the  
14 risk of predatory violence?

15 MR. MELCHER: Objection; form.

16 A. No, that's not my opinion.

17 Q. Do you know whether that custom and  
18 practice is adequate and reasonable to deter the  
19 risk of predatory violence?

20 MR. MELCHER: Objection; form.

21 A. I'm not offering that opinion. That's  
22 beyond the -- that would require me to do --

23 Q. What would it require you to do?

24 A. It would require me to -- well, that's a  
25 different inquiry. If it's reasonable relative to

1 the risk, then I have to get the violent crime data  
2 for these other properties and do an assessment.  
3 But that's -- again, that's beyond the scope of my  
4 responsibilities in this case.

5 I asked a very simple question, and I have  
6 said it three times now. If I lived at Martin Manor  
7 or Abby Ridge or The Commons or Harvest Oak or The  
8 View or the Peaks of MLK or Columbia Commons or  
9 Dogwood, if I lived at any one of those other eight  
10 places in the area, what would I expect to get with  
11 regard to gates, gatehouses, fences, and guards.  
12 That's very simple. That's all I did.

13 Q. So tell me why that's important in your  
14 opinion to know what the custom and practice is in  
15 the surrounding area.

16 A. Well, in my experience, one of the first  
17 things that a reasonable juror might ask is what's  
18 everybody else doing, what's everybody else doing  
19 with perimeter enclosures, gatehouses, dedicated  
20 armed security, barbed wire fences. That's one of  
21 the first questions that a reasonable juror might  
22 have. And so this is really, I suppose, to --  
23 ultimately to assist them with that information.

24 Q. And wouldn't a logical next question be to  
25 ask whether those customs and practices were

1 adequate and reasonable, in your words, to deter  
2 predatory violence?

3 MR. MELCHER: Objection; form.

4 A. No, because the other eight complexes are  
5 not being sued.

6 Q. But if your opinion is that there's a  
7 particular custom or practice, don't you want to  
8 know whether it's an effective or good or safe  
9 custom and practice?

10 MR. MELCHER: Objection; form.

11 A. Well, that's in part covered in my report  
12 where I talk about the limitations of gating as a  
13 violence prevention tool, where I talk about the  
14 limits of security patrol as a violence prevention  
15 tool, cameras, lighting, so it's all covered in my  
16 report anyway.

17 Q. So does it matter to your opinion whether  
18 the custom and practice is adequate to deter  
19 predatory violence?

20 MR. MELCHER: Objection; form.

21 What custom and practice?

22 MR. BLOCK: The one we have been  
23 talking about for 15 minutes.

24 Q. Please answer the question.

25 A. So which custom and practice? Gates?

1 Fencing? Guard house? Security patrol? Which one?

2 Q. In your report, Dr. Jacobs, you refer to a  
3 custom and practice, which I understand to include  
4 the various security measures that you refer to in  
5 paragraph 37, paragraph 38, and paragraph 39,  
6 parking gates, manned gatehouses, and armed  
7 security.

8 Does it matter to you whether that custom  
9 and practice is adequate to deter predatory  
10 violence?

11 MR. MELCHER: Same objection.

12 A. I'm not sure how -- again, I have answered  
13 that question. Whether it's adequate to deter  
14 predatory violence is covered in my report. The  
15 issue for the canvass is -- like I said, I did not  
16 know when I did this canvass what the results were  
17 going to be.

18 So if I came back here today and I found  
19 that seven out of the eight, for example, apartment  
20 complexes had a manned gatehouse, I mean, that would  
21 obviously benefit you, and I would be reporting that  
22 to you, and none of these questions about the crime  
23 pattern of these other properties would have been  
24 asked. It would have been simply, oh, Seven Courts  
25 is not doing something that seven of the other eight



1 people are doing.

2 And so that's my only -- that's the only  
3 reason for the inquiry is just to show, again, if I  
4 lived or your clients lived at any one of these  
5 other eight properties, what would they expect to  
6 get with regard to these four security measures.  
7 That's it.

8 Q. What would you think if you analyzed crime  
9 data for these eight properties and found that they  
10 had a pattern of predatory violence?

11 Assume with me that you did that analysis  
12 and that was your finding, what would that mean for  
13 your opinion?

14 A. I would be speculating. Depends on the  
15 nature of the pattern.

16 Q. But what -- you get where I'm going with  
17 this.

18 What if you found that many of these  
19 properties that you think are comparators had  
20 shootings, murders, armed robberies, would that have  
21 been -- just assume that's to be true.

22 Would that have any effect on your  
23 evaluation of whether the custom and practice that  
24 you think Seven Courts was adhering to was  
25 reasonable?

1           A.     It depends on whether the offenders in  
2     these alleged hypothetical other crimes are internal  
3     to the property or external. Depends whether they  
4     were tenants or guests or outsiders. It depends on  
5     who they were targeting, whether they were people  
6     known to them or not. There's too many variables  
7     for me out there that I don't know about for me to  
8     give a reliable opinion without speculating  
9     entirely.

10          Q.     And the way to conduct the analysis you  
11     just described would be to, for example, pull APD  
12     reports for these properties, right?

13          A.     If our doing a full-on foreseeability  
14     assessment of all eight other properties, yes, but  
15     I'm not doing that.

16          Q.     Well, if you wanted to evaluate whether  
17     the custom and practice you have identified were  
18     reasonable and adequate, you might also want to  
19     evaluate crime at those properties, correct?

20          A.     I think I have already answered that  
21     question four or five times. It's --

22          Q.     And it's simple to tell me yes or no.

23                 If you wanted to know if these customs and  
24     practices were adequate and reasonable, wouldn't you  
25     want to know what crime looks like at those

1 properties?

2 MR. MELCHER: Objection; asked and  
3 answered repeatedly.

4 Go ahead.

5 A. I have already answered the question,  
6 like, five times. I mean...

7 Q. And you can simply tell me yes or no.

8 A. It's not amenable to a yes or no answer.  
9 I have answered it.

10 Q. Well, I understand that the outcome of  
11 your analysis is not amenable because you didn't do  
12 the research, but just help me understand if I'm  
13 thinking about the question correctly.

14 If I'm Dr. Jacobs and I want to know  
15 whether security measures that are a custom and  
16 practice in an area are adequate and reasonable, I  
17 should go look at the crime data for all of the  
18 properties that form the basis for my custom and  
19 practice analysis; isn't that true?

20 MR. MELCHER: Aaron, you're just  
21 arguing with him now. I mean, you have asked him --

22 MR. BLOCK: Don't --

23 MR. MELCHER: Wait a second.

24 -- what went into his analysis  
25 repeatedly, and now you're projecting your opinions

1 on to him. You have established that he didn't do it  
2 because he didn't feel that it was appropriate.  
3 There's nothing else that he can say on this.

4 MR. BLOCK: Then he can give me a  
5 one-sentence answer --

6 MR. MELCHER: He just said --

7 MR. BLOCK: -- or one-word answer.

8 (Simultaneous speaking.)

9 MR. MELCHER: I'm going to instruct  
10 him not to answer yes or no if he feels he can't  
11 answer it --

12 MR. BLOCK: Is there a privilege  
13 objection you're making?

14 MR. MELCHER: No. This has nothing to  
15 do with privilege.

16 MR. BLOCK: Then you cannot give him  
17 an instruction. Then you cannot give him an  
18 instruction not to answer.

19 MR. MELCHER: I can certainly instruct  
20 him not --

21 (Simultaneous speaking.)

22 MR. MELCHER: Just like you can  
23 continue to badger him, I can continue to make  
24 objections.

25 MR. BLOCK: I'm trying to

1 understand --

2 MR. MELCHER: He indicated he cannot  
3 answer -- the witness has indicated he cannot answer  
4 the question yes or no. Why would you then ask him  
5 to answer it yes or no? Whether it's privileged  
6 objection or what, it's an inappropriate question.

7 Q. Dr. Jacobs, if you would like to know  
8 whether a custom and practice is adequate and  
9 reasonable to deter crime, don't you need to know  
10 what crime is going on at the properties that have  
11 the custom and practice?

12 A. I have already told you that question is  
13 answered by the research literature. That's a  
14 separate question --

15 Q. If you wanted to know whether a --

16 A. -- which is covered in my report.

17 Q. If you want to know whether a custom and  
18 practice in Atlanta at Seven Courts and eight  
19 neighboring properties is adequate and reasonable to  
20 deter predatory violence, don't you need to know the  
21 crime data on predatory violence at all of those  
22 properties?

23 A. No, because I'm only answering the  
24 question for Seven Courts, not these other eight  
25 properties.

1 Q. How can you know whether the custom and  
2 practice is adequate and reasonable unless you see  
3 how it's working in practice?

4 A. It's discussed in my research report or my  
5 expert report, the limits of gating, cameras,  
6 lighting, and security patrol. So that tells you  
7 from the peer-reviewed criminological literature  
8 whether to what extent these particular measures are  
9 effective in inhibiting violence. So that answer --  
10 that question is answered.

11 The question you're trying to ask is  
12 related to an inquiry that is beyond the scope of  
13 what I was asked to do. And once again, I have  
14 answered the question four, five, six different  
15 times already, so I'm just going to refer back to my  
16 previous answer because, frankly, I'm getting a  
17 little tired, and I don't want to misspeak, so I'll  
18 just refer back to what I have already answered.

19 Q. Looking at paragraph 37 of your report  
20 where you describe your area canvass, I want to  
21 understand what you did to observe these other  
22 properties.

23 Did you drive by them?

24 A. So I think the first thing I did was  
25 before my visit, I went on Google Earth and

1 identified all the relevant properties that were  
2 listed in the electronic -- on the Internet. Then  
3 once I got to the property -- or the area, I had  
4 Mr. Melcher take me around to these various  
5 properties. And, in addition, as happens sometimes,  
6 there are properties that I stumble upon during my  
7 canvass that are not listed electronically, so those  
8 would have been covered as well.

9 In terms of the actual visit, yeah, we --  
10 I instructed him to drive me onto these properties,  
11 to drive me into the properties, to drive me around  
12 the exterior of the properties. And I did that I  
13 guess eight times over. And that was the nature --  
14 again, just a basic assessment of these very basic  
15 security measures that are an issue in this case.  
16 That's all I was doing.

17 Q. Did you ever get out of the car at any of  
18 these properties?

19 A. I don't remember if I did, but the nature  
20 of this particular inquiry would not have required  
21 that.

22 Q. Did you make any attempt to speak with  
23 anyone associated with any of these properties?

24 A. You mean like a leasing agent?

25 Q. Sure. Anybody.

1           A.    I think at one of the properties there was  
2   a policeman present, and I think I talked to him  
3   briefly. And essentially what he told me was there  
4   had been some incidents in the last week or so, and  
5   so he was there investigating those. I think that's  
6   what he said.

7           Q.    What time of day did you conduct this  
8   exercise?

9           A.    Afternoon.

10          Q.    Was it light out?

11          A.    Yes.

12          Q.    So in paragraph 37, you say that at the  
13   time of your inspection, the four complexes that had  
14   a parking gate had the gate in the open position.

15                Do you know whether the gate at those  
16   properties is closed at night?

17          A.    I do not know. It would have required me  
18   to know that information in July of '21, so no, I do  
19   not know.

20          Q.    You don't know one way or the other?

21          A.    Right.

22          Q.    And in paragraph 39, you say, None of the  
23   eight complexes had indicia of a continuous  
24   uniformed and/or armed security patrol.

25                First of all, you have no information one



1 way or the other whether these properties have armed  
2 guards at night, do you?

3 A. Not based on the signage, no.

4 Q. Not based on anything, right?

5 A. Correct. But --

6 Q. And when you say that there are no indicia  
7 of a continuous uniformed and/or armed security  
8 patrol, what kind of indicia are you referring to?

9 A. So I'm looking from the offender's  
10 perspective, which is the purpose of our exercises,  
11 are there specific signage, placards saying this  
12 property is patrolled by X, Y, or Z, this property  
13 is secured by X, Y, or Z.

14 That's the visibility component of  
15 deterrence where you're publicizing the deterrent  
16 threat to would-be offenders to essentially scare  
17 them away, so that's what I'm looking at.

18 Also I'm looking at the extent to which I  
19 physically witness either a security patrol on duty  
20 and roving the property at the time of the incident.  
21 As I mentioned, there was a police officer at one of  
22 the properties, and I asked him, you know, what --  
23 the extent of his duties there, and I believe he  
24 said it was in response to a recent spat of  
25 incidents that they were investigating. I believe

1 that's what he said.

2 Q. So your -- okay. I understand what you  
3 did there.

4 MR. BLOCK: Do y'all want to take a  
5 break and you can eat some lunch, Dr. Jacobs, or a  
6 snack and we can set the laptop up?

7 (Off-the-record conversation.)

8 (Recess 12:29 p.m. to 1:05 p.m.)

9 Q. Dr. Jacobs, I would like to stick with  
10 your report, Exhibit 4. I would like you to turn,  
11 if you could, please, to page 6. I want to ask you  
12 primarily -- we're going to do this in segments but  
13 primarily paragraphs 23, 24, and 25.

14 And I actually want to work backwards  
15 because what I think you're saying in 23, 24, and 25  
16 is that the pattern of predatory violence -- let me  
17 tell you what I'm doing here. I'm looking at  
18 paragraph 25, and you say that pattern of predatory  
19 violence would not necessarily warrant a continuous  
20 roving armed security patrol at the time of the  
21 incident, and then you describe that pattern in  
22 paragraph 24, and then you compare that to the, you  
23 know, actual incident -- or ultimate incident in  
24 paragraph 23. So I'm just trying to get you  
25 oriented for where I'm looking.

1           So can you tell me about your analysis in  
2 paragraph 24, how you determined what the pattern of  
3 predatory violence was at Seven Courts prior to  
4 July 2021?

5           A.    It's based on the review of all the police  
6 reports in the file for the three years prior to the  
7 incident, which I have today on the desk here.

8           Q.    In your report, paragraph 24 refers to an  
9 approximate 11-month period in which you say that  
10 there was only one nighttime predatory gun crime.

11                So taking that in parts, why in your  
12 report do you refer to an 11-month period?

13           A.    Because that was the natural -- when I  
14 wrote this report, that was the apparent cutoff of  
15 the last reported predatory gun crime. But after  
16 reviewing -- let's see here, after reviewing Holt's  
17 deposition again, he apparently pointed out that the  
18 Strawn robbery on 8/2/20 was a false report. So I  
19 would revise my finding in paragraph 24 to say that  
20 there were no nighttime not just gun crimes,  
21 predatory violent crimes in basically a year prior.  
22 So the last -- I'm sorry there was one. There was  
23 one, the 12/12/20. So that's correct.

24                But I would say it was one nighttime  
25 predatory gun crime in basically a year prior.

1 Because the --

2 Q. Which is the -- go ahead.

3 A. Because the 8/2/20 incident Holt said was  
4 made up by the victim -- alleged victim.

5 Q. And what is the -- I think you mentioned  
6 December 2020.

7 What is the December 2020 incident you're  
8 referring to?

9 A. It's an armed robbery with a gun  
10 December 12, 2020. That was the only -- the only  
11 predatory violent crime in essentially the 12 months  
12 prior. It's also the only -- the only violent  
13 crime -- actually, the only -- yeah, the only  
14 violent crime that occurred at the property after  
15 Hickey took over security. And when I looked at the  
16 record of Mr. Holt, I can't say that at all.

17 So that's part of the assessment of the  
18 adequacy is that not only did you have a substantial  
19 dropping off of violence at the property but it  
20 coincided with the hiring -- or the getting rid of  
21 Holt and hiring Hickey.

22 Like I said, Holt -- Holt was let go in  
23 November 2020. Between November 2020 and July 2021,  
24 you had one violent crime at the property. And I  
25 thought that was a remarkable pattern and I think a

1 prudent move on the part of Seven Courts to let Holt  
2 go and hire Hickey with the 30 years' experience in  
3 law enforcement.

4 Q. Of course, Seven Courts downgraded  
5 Hickey's role as of March 2021, correct?

6 A. Well, that's not necessarily true.  
7 Mr. Hickey downgraded his presence. He couldn't  
8 staff Seven Courts to the extent that he wanted to.  
9 Seven Courts wanted to keep him on. In fact, they  
10 kept him on beyond the March '21 cutoff through an  
11 additional month in April where they specifically  
12 said, Please stay. In May and June, he had  
13 transitioned to a periodic presence as opposed to a  
14 fixed presence in addition to passing out the  
15 notices.

16 So I don't agree with your  
17 characterization that they downgraded their  
18 security.

19 Q. Well, sure. I think that it might be a  
20 little bit of a mutual thing or in the eye of the  
21 beholder. And obviously all of this is -- you and  
22 me -- subject to whatever the documents and the  
23 testimony show.

24 But what I'm trying to question you on is  
25 it is not the case that Mr. Hickey's services in

1 May, June, and July of 2021 were the same as his  
2 services prior to May 2021, correct?

3 A. Correct. And that was mostly because  
4 Hickey essentially changed the terms and was not  
5 able to meet what Seven Courts wanted him to do.

6 Q. Well, I think we'll let the testimony  
7 speak for itself.

8 But directionally Mr. Hickey provided less  
9 security service in May, June, and July 2021 than he  
10 did prior to that, correct?

11 A. I think as a function of the duration of  
12 time he was there, yes.

13 Q. So help me understand a little bit here.  
14 You testified, although it's not in your report,  
15 that you conducted an analysis of crime data over  
16 three years at Seven Courts. You have testified  
17 several times today that you did, in fact, conduct  
18 such an analysis.

19 So the first question is: Why do you not  
20 disclose that three-year analysis in your report?

21 A. Because I'm not giving a foreseeability  
22 opinion.

23 Q. We'll come back to that. I have heard  
24 your testimony this morning.

25 But why do you -- why would you recount in

1 your report any historical crime data such as the  
2 11-month crime data in paragraph 24 if you're not  
3 giving a foreseeability analysis?

4 A. Because that's the hot spot analysis.  
5 That's different than foreseeability.

6 Q. "Hot spot" is not a word you use in your  
7 report, is it?

8 A. I would have to look but maybe not, but  
9 that's what paragraph 24 and 25 capture.

10 Q. Okay. So what is a hot spot analysis such  
11 as you performed here in your analysis in this case?

12 A. It's a place where there's a concentration  
13 of violent crime in a geographically --

14 Q. And what --

15 A. I'm sorry.

16 Concentration of violent crime in a  
17 geographic location over a specific time parameter.  
18 So in this case -- again, I'll revise the report  
19 because Holt claimed --

20 Q. No, you can't do that. Actually, you  
21 can't revise your report.

22 A. Well, I'll revise the --

23 Q. It's federal.

24 A. -- conclusion in the preliminary report  
25 which I labeled "preliminary" twice based on

1 Mr. Holt's testimony that the 8/2/20 robbery was  
2 made up, so essentially it just changes from 11 to  
3 about 12 months in terms of one violent crime in the  
4 year prior.

5 Q. Sure.

6 So I'm trying to understand what is the  
7 utility of performing a hot spot analysis?

8 A. It's exactly what the police departments  
9 around the country do and exactly what we do in  
10 criminology to assess whether and to what extent you  
11 should deploy law enforcement assets at a particular  
12 place.

13 Q. And that's because based on the hot spot  
14 analysis, you might or might not expect crime that  
15 you would then want to deter with a police presence?

16 A. Particularly violent crime, predatory  
17 violence, yes.

18 Q. How is that different from a  
19 foreseeability analysis?

20 A. The hot spot analysis is really  
21 determining how to deploy your security assets.  
22 Foreseeability analysis is something separate. It's  
23 whether a particular type of incident could have  
24 been forecast.

25 Q. Okay. I understand what you're doing.



1           So in your -- what was the -- what was the  
2 frame of reference or duration of your hot spot  
3 analysis?

4           A.    I'm not sure what you mean. Like the --

5           Q.    Over what time period did you consider  
6 crime data to determine whether there was a hot spot  
7 at Seven Courts?

8           A.    Well, obviously I looked at the entire  
9 three-year period just to get a basic sense of what  
10 the property looked like. But then within the  
11 three-year period, I'm looking at the recency and  
12 frequency and similarity of violent crime to see  
13 whether and to what extent the issues that appear to  
14 be emerging in, for example, 2019 and into 2020 were  
15 continuing into 2021 such that a dedicated armed  
16 security presence was justified.

17                So I can't justify based on this data  
18 pattern a dedicated armed security presence on the  
19 night in question.

20           Q.    So let me see if I understand this.

21                Is it your testimony that you did consider  
22 crime at Seven Courts going back three years from  
23 July 2021?

24           A.    I have already said yes.

25           Q.    In conducting -- I'm sorry. I didn't mean

1 to -- you can finish your answer.

2 A. I've already said I looked at three years'  
3 worth of crime data. Within the reference period,  
4 you look for recency, frequency, and similarity, and  
5 particularly as it relates to the time period  
6 leading up to the incident to see if additional  
7 security measures, such as a dedicated armed  
8 security presence, were warranted on the night in  
9 question as opposed to a periodic patrol presence  
10 that they had in place.

11 Q. So I'm just -- I don't need to argue with  
12 you about what Mr. Hickey was actually doing. I  
13 just want to flag that I don't think we read the  
14 testimony the same way, but that's not a question or  
15 a statement to which you need to react.

16 I think what you're telling me is that you  
17 looked back three years at crime data and -- but  
18 then you zeroed in on the 12 or 11 months  
19 immediately prior to July 2021 to see whether that  
20 shorter period would have justified armed security.

21 Is that basically what you did?

22 A. Right, because that's -- the recency  
23 component gives you a better sense of whether a  
24 dedicated armed presence was necessary on the night  
25 in question.

1 Q. As you were conducting your analysis of  
2 both one- and three-year periods, what kinds of  
3 crimes or other instance would you have considered  
4 as warranting or contributing to the need for armed  
5 security overnight?

6 A. It depends what day you're talking about.

7 Q. What do you mean?

8 A. Well, for example, so they had a murder at  
9 the property on 4/6/19, and I think shortly  
10 thereafter, they hired armed security, Holt, which I  
11 think was absolutely reasonable. You have got an  
12 incident. It's a very serious incident. They  
13 responded to it. They hired somebody. They  
14 deployed them.

15 They had a couple of shootings in July  
16 of 2020, and right after those shootings, they  
17 ramped up the security presence even more, which is  
18 totally correct. I think they went to double the  
19 shifts on weekends and longer shifts during the  
20 week. So that's textbook hot spot deployment.

21 And so when you have got a diminution of  
22 violence, as you clearly had from July '20 to July  
23 '21, then you can ramp down your measures, which is  
24 exactly what they did. It's textbook.

25 Q. If I understand your testimony correctly,

1 although this is not in your report, you seem to be  
2 saying that Mr. Hickey, when he was performing  
3 actual security guard services prior to May of 2021,  
4 is responsible for at least some of the decrease in  
5 crime. In other words, switching from Holt to  
6 Hickey decreased crime.

7 Is that your opinion?

8 A. I all I can tell you is what the data say.  
9 And the data say that while Holt was there, you had  
10 armed robbery carjacking, strong arm robbery, armed  
11 robbery, armed robbery, shooting, shooting, and then  
12 strong arm robbery that was fake. And while Hickey  
13 was there, you had one armed robbery.

14 Q. Right.

15 And I'm wondering if -- I think I know --  
16 I think I know what you're trying to do. All right.  
17 So I think I understand what you're saying right  
18 here.

19 So is it your opinion that TPI conducted  
20 any kind of analysis of crime conditions and made a  
21 considered choice to decrease the level of armed  
22 security as of July 2021 because there was less  
23 crime to deter?

24 A. No, I don't think they did that, and I  
25 don't think I said that. But if I would have been

1 advising them and I see this crime pattern, I would  
2 have said that what they did forensically was  
3 absolutely reasonable. And the fact of the matter  
4 is they --

5 Q. Do you recall Mr. Hickey's testimony that  
6 crime in Atlanta tends to increase in the summer?

7 A. Well, depends on what kind of crime you're  
8 talking about. I think he's talking about, like,  
9 teenagers and loitering and all kinds of other stuff  
10 that's not violence.

11 Q. Is that what he testified to, sir?

12 A. I would have to get out his deposition,  
13 but if you're talking about all crime, then that may  
14 be true, certain kinds of crime do increase. I'm  
15 not sure about predatory violence. Domestic  
16 violence certainly increases in the summer.

17 Q. Have you ever analyzed whether predatory  
18 violent crime increases in the summer in Atlanta?

19 A. In Atlanta for the entire city, no.

20 Q. Did you analyze in this case whether Seven  
21 Courts experienced more crime of any type predatory  
22 violent or otherwise in summers as opposed to in the  
23 cooler months?

24 A. Well, in '19, they had none in terms of  
25 predatory violence. In '20, they obviously had --

1 Q. Okay. There was a murder -- you sure --  
2 it's not actually summer here in April but it's hot.

3 A. April 7th is not summer.

4 Q. Yeah. It's warm weather; it's not the  
5 calendar.

6 MR. MELCHER: Let's just define the  
7 time period then.

8 Q. Anyway, tell me what you did. I don't  
9 want you to speculate sitting here. I want you to  
10 tell me about the work you did before signing your  
11 name to this report.

12 Did you study before signing your name to  
13 this report whether there are any temporal patterns  
14 in crime at Seven Courts season to season?

15 A. I just told you I'm looking at the --  
16 looking at my notes.

17 Q. No. Tell me whether you did analysis  
18 beforehand, not what you can come up with now  
19 looking at your notes.

20 MR. MELCHER: Objection; form.

21 A. These are my notes so it's beforehand.

22 Q. You did this analysis beforehand or you  
23 took the notes beforehand?

24 A. Well, both; if I took the notes, I did the  
25 analysis.

1 Q. What is your analysis that you did  
2 beforehand?

3 A. I just list all the acts of predatory  
4 violence between, looks like, 7/'18 and 7/'21. I  
5 have them listed by date and type. And that comes  
6 right from the police reports that I told you I put  
7 markings on very early on in this case that you will  
8 be provided after today's deposition.

9 Q. Speaking of materials to be provided after  
10 today's deposition, are you willing to comply with  
11 our subpoena and go into your sent items in your  
12 email to look for reports from prior cases?

13 MR. MELCHER: Objection; form.  
14 Go ahead.

15 A. Perhaps. I mean, I don't know if that's  
16 confidential work product with the attorneys I'm  
17 working with. I'm not going to disclose  
18 confidential work product that might jeopardize the  
19 outcome of a case, absolutely not.

20 Q. Well, to me that's sort of a case-by-case  
21 analysis that you might have to do. My question is  
22 different. It's are you going to go do the search  
23 that the subpoena asked you to do?

24 A. So --

25 MR. MELCHER: Same objection.

1 A. -- search prior emails for reports sent?

2 Q. We asked you for reports that you had  
3 served in prior cases. And I think we limited it to  
4 the last four years or so. And you told us in your  
5 written response that you didn't have any. You told  
6 us in your testimony today that you don't actually  
7 know because you didn't go into your sent box which  
8 would reflect if you sent a final report to an  
9 attorney.

10 I understand you that there could be --  
11 understanding you to be saying that there could be  
12 circumstances in which a report, notwithstanding  
13 final from your perspective, might not have been  
14 served on the other side and might still be  
15 protected as work product, but that's -- that's a  
16 different question.

17 The first step is just actually doing the  
18 search to see what you have, which you haven't done  
19 yet. So my question for you is whether you're  
20 willing to do that search.

21 A. I'll look in my sent email box and see if  
22 there are any reports that jump out, but other than  
23 that -- I mean, I don't have the original signed  
24 copies of these reports. And to the extent that  
25 they have changed since I issued them, I don't know.



1 But I'll look in my sent email box if that's what  
2 you want me to do.

3 Q. Yeah, it is. And I don't -- you keep  
4 using the term "original." I don't need the paper  
5 copy with the wetting signature; I need a copy of  
6 that which you've testified you would have sent to  
7 the lawyers who retained you via email. So that's  
8 what we want.

9 A. I'll look and see what shows up.

10 Q. Thank you.

11 And then obviously if there are reasons to  
12 think that particular reports are protected for one  
13 reason or another, you know, it could be that they  
14 weren't served so they're work product, it could  
15 be -- I doubt it would be HIPAA, but it could be  
16 HIPAA. You know, we can talk about all that, but  
17 the first step is to understand what we're dealing  
18 with.

19 Okay. So what -- if you were doing your  
20 analysis, your -- what you call the hot spot  
21 analysis, what kinds of -- what kinds of -- well,  
22 let me make sure I understand.

23 What's the duration of the hot spot  
24 analysis? Is it three years or is it approximately  
25 one year?

1           A.     Well, it depends on the nature of the  
2     inquiry. I mean, obviously I looked at three years'  
3     worth of data. And then as I mentioned a few times  
4     today, within the reference period, you look for  
5     patterns and trends and the recency of predatory  
6     violence within the reference period, so that's what  
7     I did. And then you compare those trends to the  
8     security posture in place to see if additional or  
9     different measures were justified. So those would  
10    be the three answers to your question.

11          Q.     And what kinds of crimes did you  
12    consider -- what kinds of crimes would bear on your  
13    hot spot analysis?

14          A.     Well, you're looking at whether the  
15    incident -- or whether the property was a hot spot  
16    for predatory violence.

17                 So I look -- I considered all crimes,  
18    analyzed all crimes, and then within that population  
19    of crimes, I looked to see which ones were predatory  
20    violence.

21          Q.     And just so we have a good definition --  
22    you did testify to it earlier but a good fresh  
23    definition -- what do you mean by "predatory  
24    violence"?

25          A.     Typically predatory violence is stranger

1 on stranger where there's no discernible  
2 relationship of significance between the victim and  
3 the offender.

4 Q. And then I think in your paragraph 6, you  
5 appear to distinguish predatory violence from crimes  
6 such as -- I'm quoting you here -- burglary,  
7 larceny, and motor vehicle theft, which you  
8 characterize as property crimes.

9 Is that the distinction that you draw?

10 A. Well, not only me but the Uniform Crime  
11 Reporting system and 18,000 police departments  
12 around the country.

13 Q. And you say that property crimes like  
14 those do not empirically forecast violent crimes,  
15 right?

16 A. Correct.

17 Q. Have you ever offered the opinion that  
18 property crimes, like motor vehicle theft, do  
19 forecast violent crimes?

20 A. In my opinion, no. I mean, some people  
21 do.

22 Q. Have you ever used property crimes, like  
23 motor vehicle theft, to evaluate whether a crime was  
24 foreseeable or likely or a property with a hot spot?

25 A. It would depend on the nature of the

1 inquiry. So if I was analyzing the foreseeability  
2 of an auto theft, then I would probably look at auto  
3 theft.

4 Q. Sure. That's fair. I did not ask a very  
5 precise question.

6 Have you ever evaluated property crimes,  
7 like auto thefts, to determine whether they might  
8 forecast a violent crime?

9 A. Well, I would look at them to see if they  
10 did, in fact, escalate to violence of any kind.  
11 So -- but if they didn't, then you set them aside.

12 Q. In other words, in your view, an auto  
13 theft that doesn't itself escalate to violence would  
14 not predict a future violent crime at a property?

15 A. That's what the research indicates,  
16 correct.

17 Q. Have you always had that opinion?

18 A. I would think so.

19 Q. How about burglary, have you ever had the  
20 opinion that burglary, which did not itself lead to  
21 a violent episode, could nonetheless predict the  
22 occurrence of a violent episode?

23 A. No. Some people call it a threshold crime  
24 that can escalate, but I'm not of that opinion and I  
25 have the data to back that up.

1           Q.     In paragraph 27 you say that burglaries  
2     are not accompanied by violent crime of any kind and  
3     that 99.7 percent of all reported motor vehicle  
4     thefts were not accompanied by violent crime of any  
5     kind.

6                     What I think you're saying there is that  
7     at the moment of a burglary, almost all of them do  
8     not convert into a violent episode. And at the  
9     moment of an auto vehicle theft, 99.7 percent of  
10    them do not convert or progress into a violent  
11    episode, correct?

12           A.     They don't escalate. They're not  
13    accompanied by violence, correct.

14           Q.     "Escalate," that's the word that you used.  
15                     It's a different question, though, whether  
16    the occurrence of burglaries and auto thefts might  
17    be associated with more violent crimes at different  
18    times, right?

19           A.     Right. The literature is very clear that  
20    those are not necessarily predictive violent crimes  
21    at other times. You have lots of properties with,  
22    you know, burglary after burglary with no violence  
23    ever recorded. Conversely, you have lots of  
24    properties with relatively few property crimes and a  
25    significant number of violent crimes. So that's why

1 you do the crime-specific analysis.

2 Q. Do you consider -- when you're doing your  
3 hot spot analysis, do you consider shootings or the  
4 discharge of a firearm that does not hit somebody  
5 and not result in an injury --

6 A. Yes.

7 Q. -- as predictive of -- I'm sorry, let me  
8 finish the question.

9 -- as predictive of a predatory violence?

10 A. If -- I include shootings if they're  
11 verified and if they involve -- if they don't  
12 involve some sort of domestic or relational sort of  
13 attachment.

14 Q. And can you explain for me -- what I'm  
15 hearing from you is that like domestic violence or  
16 crimes between people who have a significant  
17 relationship, they don't seem to count in your  
18 analysis of whether a property is a hot spot.

19 Is that a fair assessment of your opinion?

20 A. In terms of a hot spot of predatory  
21 violence, they don't count per se. I mean, you're  
22 talking about -- that's not just my opinion. The  
23 Department of Justice makes a distinction between  
24 domestic violence and predatory violence, forensic  
25 criminologists around the country make the

1 distinction, forensic criminology textbooks make the  
2 distinction.

3 Domestic violence typically can't be  
4 foreseen and often can't be prevented because they  
5 involve incidents -- they involve incidents with  
6 people who know one another often intimately that  
7 have conflicts that are intrinsic to that  
8 relationship that the landlord or defendant  
9 typically knows little to nothing about, so there's  
10 not really much you can do about it. That's the  
11 short -- the long and short of it.

12 Q. Yeah, I understand that, but I'm wondering  
13 about a slightly different question, which is  
14 whether the existence of repeated instances of  
15 domestic violence might nonetheless, you know,  
16 characterize a location that is generally violent or  
17 generally at risk of predatory violence.

18 A. No. There's -- the correlation -- I do  
19 not know of a correlation between those two things  
20 as I sit here.

21 Q. And if you were doing -- we kind of  
22 touched on this earlier, but if you were doing your  
23 hot spot analysis, did you consider the presence of  
24 drug crimes at Seven Courts?

25 A. If they escalated to violence -- obviously

1 I considered all crimes. And then again, I looked  
2 at the extent to which these other crimes were  
3 either linked to or accompanied by or escalated to  
4 predatory violence.

5 Q. I want to ask you about some crime  
6 reports, if you can tell me how they factor into  
7 your hot spot analysis. Okay?

8 A. All right.

9 Q. So let's just start with -- I want to  
10 start with APD reports so bear with me here.

11 Okay. So I have up on the screen,  
12 Dr. Jacobs -- these are the APD reports that we  
13 received from APD starting with 2019. This is  
14 the -- APD broke the 2019 reports into two files,  
15 not necessarily in chronological order, but this is  
16 2019 Police Reports, dash, 1 which I know you have.

17 So I just want to walk through crimes, and  
18 you tell me what these crimes mean to you in terms  
19 of your hot spot analysis. We're not going to talk  
20 about all of them.

21 The first one is for forgery of a check  
22 under \$10,000. I think I know what you're going to  
23 say. So we don't need to talk about that one.

24 And we don't need to talk about stolen  
25 Amazon packages necessarily unless it were, like,



1 you know, there were a lot of them. But that's the  
2 only one that I have seen.

3 Can you see this on your screen?

4 A. Yes.

5 Q. Okay. So we have here -- this is a  
6 10/12/2019 incident, so this is within the  
7 three-year period. And it looks like this is an  
8 auto theft. I'll flip to the substance of the  
9 narrative. So this is an auto theft around  
10 8:00 p.m. on 10/11/2019, and -- I mean, it is what  
11 it is; it's an auto theft.

12 What, if anything, does this auto theft  
13 say to you about the risk of predatory violence at  
14 Seven Courts?

15 A. Nothing in particular.

16 Q. And I think this is actually -- this is a  
17 different one, so 11/5/2019, it's another auto  
18 theft.

19 Same answer, this says nothing in  
20 particular to you about the risk of predatory  
21 violence at Seven Courts?

22 A. Correct.

23 Q. Let's see. This is another auto theft.  
24 Same answer?

25 A. Correct.

1 Q. Now, this one, this is from May 16, 2019.  
2 And this is -- I'll let you read it, of course, but  
3 this is an assault, an unknown male/suspect  
4 assaulted a Mr. Lorenza when he went to take out the  
5 trash.

6 A. Can you scroll down to the next page?

7 Q. Yes.

8 A. So this is a simple assault involving --  
9 so no deadly weapon, no serious injury, so it's a  
10 Part II. It's not a Part I violent crime per the  
11 FBI standard. And he knows these individuals in  
12 some capacity, so although the relationship was --  
13 appeared to be not deep, the relevant criteria is  
14 that it's a simple assault, no deadly weapon, no  
15 serious injury, so it's not a Part I violent crime.

16 Q. And so because it's not a Part I violent  
17 crime, you just categorically take this assault out  
18 of consideration in your hot spot analysis?

19 A. I wouldn't say I take it out. I  
20 considered it but -- this was what date again?

21 Q. It was May 2019.

22 A. Right. So it's 4:30 in the afternoon  
23 right after school. It's over two years old. So I  
24 considered it, but it's -- kind of set it to the  
25 side because not a Part I violent crime, it lacks

1 recency, it's not at night, involves no weapon, no  
2 serious injury, et cetera.

3 Q. So you give it very little weight?

4 A. Relative to the analysis that I did,  
5 correct.

6 Q. So the next one is -- these are not in  
7 order for some reason but that's how APD gave them  
8 to us.

9 So this is 11/3/2019, and this is another  
10 assault apparently from one tenant to another,  
11 assuming -- (audio distortion) -- who assaulted the  
12 victim.

13 What do you do with an incident like this  
14 in your hot spot analysis?

15 A. Same as the other one; it's daytime  
16 incident, simple assault, no deadly weapon, no  
17 victim injury. It's not a Part I violent crime.

18 Q. So here is one from April 6, 2019. There  
19 was a shooting -- this is the murder. So this one  
20 you do take seriously.

21 A. Of course.

22 Q. And you know there was another murder in  
23 April of 2022, right, at Seven Courts?

24 A. I don't look after the incident.

25 Q. Why not?

1           A.     Because post-incident crime is irrelevant  
2     to my opinions in this case.

3           Q.     Might it bear on the defendant's crime  
4     prevention methods and whether they're adequate to  
5     deter crime?

6                     MR. MELCHER:   Objection; form.

7           A.     Once again, I don't look at post-incident  
8     data.

9           Q.     I'm asking you a logic question.   Couldn't  
10    post-incident data bear -- assuming the security  
11    measures are the same or similar, couldn't it bear  
12    on their adequacy?

13          A.     I don't -- I have no information about any  
14    of that after the incident, so I don't know.

15          Q.     Not my question.   My question is whether  
16    conceptually a post-incident murder could bear on  
17    the adequacy of the similar crime prevention methods  
18    at Seven Courts.

19          A.     Same answer.   I don't know how to answer  
20    your question.   I didn't analyze anything after the  
21    incident.

22          Q.     So this one -- it doesn't start there --  
23    it's -- maybe we can do this.   Okay.

24                     If it's -- I think you told me what you  
25    feel about burglary and you have told me -- which

1 this may or may not have been a near burglary, this  
2 one that's up on the screen. It's a prowler call.  
3 Who knows.

4 I think you told me about assaults that  
5 are, in your view, minor. So in your hot spot  
6 analysis, you're really just looking to see, I  
7 guess, shots fired or a murder or, like, an injury  
8 that sent someone to the hospital?

9 You're shaking your head. Tell me what  
10 matters. Tell me what says to you this place needs  
11 an armed security guard.

12 A. So Part I predatory violent crimes;  
13 murder, rape, aggravated assault, robbery of all  
14 kinds, stabbings, shootings, robberies, carjackings,  
15 murders, sexual assaults.

16 As long as they're predatory and as long  
17 as they meet the UCR-defined classification of a  
18 Part I violent crime, then I would obviously  
19 consider them for assessing the security posture of  
20 a venue.

21 Q. Would it have been reasonable for Seven  
22 Courts to have nighttime armed security in July  
23 of 2021?

24 A. Well, they did. It was periodic, it  
25 wasn't fixed, so they did have it.

1 Q. Okay. We will have to agree to disagree  
2 about what Mr. Hickey was actually doing.

3 Let me just spot you for the sake of  
4 argument that he was there in July of 2021 for as  
5 long as it took him to drive through and pass out  
6 notices, okay, which is what he actually testified  
7 to.

8 My question is different. Would it have  
9 been reasonable to have real overnight armed  
10 security at Seven Courts in July of 2021?

11 MR. MELCHER: Objection; form, asked  
12 and answered. And if you're referring to specific  
13 testimony, I would ask you to refer to that specific  
14 testimony.

15 MR. BLOCK: Thank you.

16 Q. Please answer the question.

17 A. Property can do anything it wants. I'm  
18 not here to say it could or couldn't. I'm just here  
19 to say what the data showed and what the data  
20 justified or not.

21 Q. Different question than what you're  
22 answering.

23 Would it have been reasonable for TPI to  
24 provide overnight armed security at Seven Courts in  
25 July of 2021?

1 MR. MELCHER: Objection; term  
2 "reasonable."

3 A. It could be reasonable; it could be  
4 unreasonable. I'm not sure how to answer the  
5 question.

6 Q. Do you think it would have been a waste of  
7 money for TPI to pay for armed security overnight at  
8 Seven Courts in July of 2021?

9 MR. MELCHER: Objection to the term  
10 "think."

11 A. I don't know.

12 Q. Do you think it would have been a bad idea  
13 for Seven Courts to provide overnight armed security  
14 in July of 2021?

15 A. I'm agnostic; it's neither a good or bad  
16 idea. The issue is is it justified by the data.

17 Q. Do you think it would have been  
18 unjustified by the data for TPI to pay for overnight  
19 armed security at Seven Courts in July of 2021?

20 A. I think that's what my report said, that  
21 the predatory violent crime pattern did not  
22 warrant -- I use the word "warrant" -- a continuous  
23 roving armed security patrol, so I will stick with  
24 that.

25 Q. Do you think a continuous roving arm

1 security patrol in July 2021 would have been  
2 unjustified?

3 A. It was not justified by the predatory  
4 violent crime pattern, correct.

5 Q. In forming your opinions about what  
6 security measures were justified, did you consider  
7 the two other attempts to at least steal from the  
8 Diaz family?

9 MR. MELCHER: Objection; form.

10 A. I'm sorry, say again.

11 Q. In forming your opinions about what  
12 security measures were reasonable, did you consider  
13 the two prior attempted robbery attempts on the Diaz  
14 family?

15 MR. MELCHER: Same objection.

16 A. Okay. There was a prior burglary attempt,  
17 I believe. The second alleged attempt was a soccer  
18 ball hitting the window, so -- and neither of those  
19 were robberies. Those were -- one was a soccer ball  
20 hitting the window; the other one was apparently a  
21 burglary attempt, but the guy, I guess, figured out  
22 somebody was there and ran away.

23 Q. So let's take that one.

24 Did you consider that burglary attempt in  
25 forming your analysis about what security systems



1 were reasonable at Seven Courts?

2 A. I considered all the crime, as I told you  
3 before. So the question is did that particular  
4 burglary or any others escalate to violence of any  
5 kind. I looked at that.

6 Q. And you characterize another incident as a  
7 soccer ball, so I take it you're choosing to believe  
8 Toya Wynn's version of events as opposed to the Diaz  
9 family's at least belief about what really broke  
10 their -- or damaged their window.

11 Why are you choosing to believe Toya  
12 Wynn's version of events?

13 MR. MELCHER: Objection; form.

14 A. Because Ms. Fontaine corroborated it. I  
15 believe Harris corroborated it. I'm not sure if  
16 Hickey did, I would have to re-read his deposition,  
17 but this wasn't an isolated statement.

18 And the -- I believe the internal report,  
19 it was -- I think it was a broken window. Not a  
20 single thing was moved or stolen or removed or  
21 anything from the apartment, so it was consistent  
22 with the deposition testimony it was a soccer ball  
23 hitting the window.

24 Q. Looking at your report, I want to look at  
25 page -- excuse me, paragraph 34 with you. You say

1 that there is no reliable scientific evidence that  
2 gating and fencing prevents violent crime of the  
3 general type involved here.

4 By "violent crime of the general type," do  
5 you mean armed robberies or other types of violent  
6 crime?

7 A. Part I predatory violent crime.

8 Q. And is it really your testimony that there  
9 is no reliable scientific evidence that gating and  
10 fencing can prevent Part I violent crime?

11 A. At apartment complexes, I have looked at  
12 the -- I have canvassed the literature. In fact,  
13 some of the literature shows that the literature is  
14 equivocal. Let's put it that way. There's some  
15 literature that may suggest there's a preventative  
16 effect. There's other literature that says there's  
17 not.

18 But when you focus on -- like, for  
19 example, I have co-written an article on the rates  
20 of robbery at gated versus ungated complexes. And  
21 the data are a bit limited in terms of what they can  
22 do, but those data do not -- do not prove, I guess,  
23 within the realm of scientific probability that  
24 there is, in fact, a statistically significant  
25 reduction in robbery at gated complexes as opposed

1 to ungated complexes. So that's all I can say.

2 Q. So are complexes or other buildings who  
3 spend the money on gates and fences just throwing  
4 their money away?

5 A. I wouldn't say that. For some offenders  
6 in some circumstances, it may deter them. But like  
7 I said, I'm looking at the broader -- the broader  
8 question, you know, is there statistically  
9 significant evidence that shows a reduction at  
10 apartment complexes in robbery between gated and  
11 ungated complexes.

12 Q. So you say that in paragraph 40 --  
13 basically your testimony is surveillance cameras  
14 are, quote, an excellent forensic tool. They have  
15 minimal demonstrated scientific -- I assume  
16 "evidence" or "value" is missing there -- for  
17 violence prevention, particularly in the United  
18 States.

19 That's what you said in your report. I  
20 read your testimony to be security cameras do not  
21 prevent violent crime, at least in the United  
22 States.

23 Is that the point you're trying to make?

24 A. Well. It's -- that's what the literature  
25 shows. I mean, again, I'm all for cameras, I like

1 cameras, the more the better, but in terms of a  
2 violence prevention tool, the scientific literature  
3 does not suggest there's a strong correlation  
4 between camera presence and violence reduction.

5 Q. And cameras are not a substitute for an  
6 armed security guard, are they?

7 A. Well, it would depend on the deployment of  
8 the camera, how they're used, whether they're  
9 monitored real-time, whether they're coupled with  
10 some other security presence.

11 But, yeah, I mean, if you're just talking  
12 about camera versus guard, they're very different.

13 Q. Yeah.

14 And then for paragraph 41, you discuss  
15 lighting and you say that that measure, meaning  
16 lighting, has been shown too scientifically -- I  
17 think this is a typo and you meant to say  
18 inconclusive as a violence prevention measure.

19 A. Yeah.

20 Q. That's just a typo. It has to be for that  
21 sentence to make sense.

22 Your point there is that lighting doesn't  
23 prevent Part I violent crime?

24 A. Well, I think it would be broader than  
25 that. The lighting studies don't differentiate --

1     yeah, I think that's correct actually.

2                 So the lighting studies basically don't  
3     show a scientifically conclusive relationship  
4     between lighting levels and violence. Some show a  
5     reduction in crime; some don't.

6                 The ones that show a reduction tend to  
7     show it for property crime or certain forms of  
8     property crime. The ones that show reduction almost  
9     never show a reduction for violence.

10                And when they do show a reduction for  
11    violence or just crime in general, they can't --  
12    they're not able to disentangle whether it was the  
13    lighting that caused the reduction in crime or  
14    whether it was some other measure that was in place  
15    at the same time, like a camera or a guard or police  
16    or whatever it might be. So that's why the effect  
17    is -- it's a null effect, n-u-l-l, inconclusive.

18                Q.    So I just -- I want to try and understand  
19    putting all this together. Assume that we have two  
20    properties that are next to each other and identical  
21    in every respect. And let's say they're in a  
22    dangerous part of town like Seven Courts is. And  
23    one of them has really good lighting and a working  
24    gate and a fence, and the other one has no fence, no  
25    gate, and it's pitch black at night.

1 Do you think that those two properties are  
2 going to have the same amount of violent crime?

3 MR. MELCHER: Objection to the term  
4 "think" and form.

5 A. I have to see the data, and I also have to  
6 see whether the crimes are being committed by people  
7 internal to the property or external and whether  
8 the --

9 Q. Yeah. Just use your common sense here and  
10 give me the common sense answer. Two properties  
11 that are completely the same, one of which is  
12 brightly lit and gated and fenced and the other is  
13 pitch black, and has no gated fence, do you really  
14 think they will have the same amount of violent  
15 crime?

16 MR. MELCHER: Objection; form.

17 A. If it's common sense, you don't need an  
18 expert to answer it. But like I said, I need the  
19 data. All else being equal, I'm all for lights, I'm  
20 all for cameras. I'm just telling you what the data  
21 shows.

22 Q. Looking at paragraph 42, you describe this  
23 incident as targeted -- or apparently targeted. I  
24 think you go as far as saying it for sure is.

25 Tell me how you differentiate between a

1 targeted versus an opportunistic crime.

2 A. Well, that's why I don't -- I don't know.  
3 That's why I use the word, I think, "appearance."

4 Q. Yes.

5 A. I'm just saying, like, you have 170 units  
6 at this property. There's never -- to my  
7 recollection, there's never been an armed home  
8 invasion of any unit at this property prior to this  
9 one.

10 Somehow, somehow, this masked guy shows up  
11 outside of B23, and as this family is coming back  
12 from the mailbox and playground and just times it  
13 perfectly right when they get back and right when  
14 they open the door and rushes them in and demands  
15 the money.

16 I mean, in my experience as a  
17 criminologist, for that to be a coincidence is a  
18 strange, almost all credulity, but like I said, I'm  
19 not offering an opinion that this was a targeted  
20 crime, but you know, it certainly -- I guess that's  
21 all I would say.

22 Q. Could you look at paragraph 21. We're  
23 going to start to go back up. Actually, no, it  
24 should be paragraph -- well, it's paragraph 21 and  
25 22.

1           So paragraph 21 contains your bullet point  
2 list of all of the security measures you believe  
3 that Seven Courts had, and then in paragraph 22, you  
4 say that the above measures are consistent with  
5 established practices in crime prevention through  
6 environmental crime and situational crime  
7 prevention, which you describe as peer-reviewed,  
8 scientific approaches to crime prevention, right.

9           So tell me what you mean -- let's take  
10 those one at a time. Let's first start with CPTED,  
11 Crime Prevention Through Environmental Design.

12           Is it your testimony that Seven Courts has  
13 security measures that were consistent with the  
14 standards for Crime Prevention Through Environmental  
15 Design?

16           A. Yeah, they had all the things listed in  
17 those -- in the previous paragraph get to things  
18 such as defensible space, order maintenance,  
19 activity support, territorial reinforcement, natural  
20 surveillance. These are all concepts that are  
21 embedded within CPTED, so yes.

22           Q. Are there -- did you formally compare the  
23 security measures at Seven Courts to any kind of  
24 standard for Crime Prevention Through Environmental  
25 Design?



1           A.     I think I just described that. These  
2 measures are consistent with defensible space,  
3 activity support, natural surveillance, territorial  
4 reinforcement, order maintenance, you know, the  
5 variance dimensions that go into CPTED. These are  
6 all consistent with those.

7           Q.     And so that's your analysis basically is  
8 you just have a -- you sort of have a sense of what  
9 you think the Crime Prevention Through Environmental  
10 Design security measures are and you compared them,  
11 I guess, in your mind to the security measures you  
12 think were in place at Seven Courts?

13                         MR. MELCHER: Objection; form.

14           A.     I'm not sure where you're getting that  
15 conclusion from. The CPTED materials embedded in  
16 the 100-plus PDFs that I uploaded to the ShareFile  
17 link a few weeks ago, the dimensions I just listed a  
18 few minutes ago, those are standard -- standard  
19 concepts within CPTED. I teach them to my students.  
20 I have taught them for 25 years. And they were in  
21 place. I mean, they're consistent with CPTED. I  
22 mean, I don't know what else to say.

23           Q.     Do you think that TPI should have done  
24 anything differently in relation to security during  
25 July of 2021?

1           A.     The one thing I probably would have had  
2     them do is instead of Hickey doing three random  
3     patrols a week, I would have -- I would have  
4     negotiated some sort of periodic in and out presence  
5     that was episodic, intermittent, and random. They  
6     could probably have done that without increasing the  
7     budget, and it would not have required much more in  
8     the way of time on the part of Hickey's part. It  
9     would just have been a slightly different  
10    deployment. That's probably what I would have  
11    recommended, just a slightly different deployment.

12          Q.     That's it? Otherwise, you think  
13    everything they did to deter the risk of violent  
14    crime in July of 2021 was reasonable?

15          A.     Given that they were in the midst of  
16    upgrading their surveillance system and given the  
17    absence of any predatory violence -- or the virtual  
18    absence of any predatory violence in the year prior,  
19    I think that would have been reasonable given the  
20    data points we have already talked about today.

21          Q.     Would you have felt comfortable living at  
22    Seven Courts in July 2021?

23                   MR. MELCHER: Objection; form.

24          A.     I really don't know. I don't like  
25    apartment complexes period, so that would be my

1 answer.

2 Q. Let me ask you about something,  
3 Dr. Jacobs. Give me a minute to put something on  
4 the screen.

5 Dr. Jacobs, I am going to mark as  
6 Exhibit 5 something that you should see on your  
7 screen that's identified Affidavit of Bruce A.  
8 Jacobs, Ph.D., in the case of Kathryn Perez against  
9 DNT Global Star, LLC, from Harris County District  
10 Court.

11 Do you see that on your screen?

12 (Exhibit 5 marked.)

13 A. Yes.

14 Q. Do you remember testifying or  
15 participating as an expert in the Perez case?

16 A. Vaguely.

17 Q. But you are the Bruce A. Jacobs, Ph.D.,  
18 who -- and I'll show you all the pages -- but whose  
19 affidavit this is?

20 A. Correct.

21 Q. And just so you can look at the last page,  
22 do you recognize that signature on the last page as  
23 your signature?

24 A. Yes.

25 Q. Okay. I want to ask you about some of the

1 things that you said in the Perez case.

2 Do you need to refresh yourself on what  
3 the facts were in the Perez case before I ask you  
4 questions about the affidavit?

5 A. I don't think so.

6 Q. Okay. But just so we're on the same page,  
7 it was a premises liability or negligent security  
8 case involving an apartment complex and there  
9 someone -- the predatory violence they experienced  
10 was murder, right?

11 A. Right.

12 Q. And you testified for the plaintiff in  
13 that case, not the defense like you're doing here,  
14 right?

15 A. Correct.

16 Q. Okay. So I want to look at some things  
17 that you did. If you look at page 3 of your  
18 affidavit, I'm looking toward the bottom here --  
19 actually, starting at "in terms of violent crime" --  
20 sorry, just so you know, I'll go back to the  
21 beginning.

22 The murder in this case took place at 500  
23 West Crosstimbers. Okay. I just want to make sure  
24 that we're on the same page about where the murder  
25 site was, what the apartment complex address was.

1 It was 500 West Crosstimbers.

2 So, actually, if we look at page 2, the  
3 materials that you looked at in that case were  
4 Houston police reports obtained for the one-mile  
5 radius, including and surrounding 500 West  
6 Crosstimbers for the 23 months prior to the murder  
7 of the victim limited only to apartment complexes in  
8 that vicinity, right?

9 A. I'll take your word for it.

10 Q. It's what you wrote in your affidavit, so  
11 it's actually your word for it, sir.

12 A. Right. I can't read it, but like I said,  
13 I'll take your word for it.

14 Q. I can make it a little bigger if that  
15 helps.

16 In the Perez case, unlike in the Diaz  
17 case, you reviewed police reports not just for the  
18 site where the murder or violent crime took place  
19 but also all the other apartment complexes within a  
20 mile.

21 A. Right because I was doing a foreseeability  
22 opinion in that case which I'm not doing here.

23 Q. Yes, I understand what you're saying about  
24 that. I actually sort of dispute that you're -- I  
25 think you are trying to give a foreseeability

1 opinion and just call it something else, but I hear  
2 you on that. I just don't want you to think that's  
3 going undetected.

4 MR. MELCHER: Objection; form. That's  
5 not a question; it's a statement.

6 MR. BLOCK: It's not. It's just a  
7 statement about your strategy.

8 MR. MELCHER: Let's limit it to  
9 questions here.

10 MR. BLOCK: Limit your objections to,  
11 you know, real objections that just say form or  
12 whatever.

13 (Simultaneous speaking.)

14 MR. BLOCK: Or you can let me take the  
15 deposition.

16 MR. MELCHER: I am perfectly content  
17 with my objections. They are following the Federal  
18 Rules, and they are not lengthy, and they are just  
19 stating the grounds with no elaboration.

20 MR. BLOCK: That is not an accurate  
21 statement but the record --

22 MR. MELCHER: That's because you're  
23 not listening, Aaron.

24 MR. BLOCK: Okay. We don't need to  
25 argue with each other, Jeff.

1 MR. MELCHER: That is correct.

2 Q. Anyway, I heard what you said, Dr. Jacobs,  
3 but the fact is your approach when you wanted to  
4 understand crime where the victim was attacked in  
5 the Perez case was to look at crime at the site  
6 where he was attacked and also at all the other  
7 apartment complexes within a mile, which is the  
8 opposite of what you did in this case, correct?

9 MR. MELCHER: Objection; form.

10 A. Incorrect. As I said a few minutes ago,  
11 in that case, I was asked to give a foreseeability  
12 opinion; in this case, I was not.

13 Q. You have been asked in this case to give  
14 an opinion about risk of violence at Seven Courts,  
15 correct?

16 A. As it relates to a hot spot designation  
17 and the justification for dedicated, fixed, armed  
18 security presence at the complex on the night in  
19 question.

20 Q. And so in your mind, there's a difference  
21 between an analysis of risk of crime and whether  
22 crime is foreseeable?

23 A. Is that a question?

24 Q. Yes.

25 A. Are you talking about the general risk of

1 any crime or are you talking about the risk of  
2 predatory violence? What are you talking about?

3 Q. I'll rephrase.

4 Is there a difference in your mind between  
5 evaluating a risk of predatory violent crime and  
6 evaluating whether predatory violent crime is  
7 foreseeable?

8 A. As it relates to security deployment,  
9 there could be, and that's the scope of my inquiry  
10 in this case, was a dedicated armed security  
11 presence justified at this property on the night in  
12 question.

13 Q. And justified by the risk of foreseeable  
14 crime, violent crime, right?

15 A. I wouldn't call it foreseeability. I  
16 would talk about the predatory violent crime pattern  
17 in the months preceding the incident, just --

18 Q. And whether that --

19 A. It's the same thing that every police  
20 department does before they decide where to send  
21 their officers.

22 Q. I know. And what you're talking about is  
23 whether the pattern of predatory violent crime in  
24 the preceding time period makes it conceivable or  
25 foreseeable that there will be predatory violent



1 crime during the period in which you're trying to  
2 decide whether to allocate resources.

3 MR. MELCHER: Objection; form.

4 A. I guess that's your opinion. I wouldn't  
5 put it that way.

6 Q. Okay. So do you intend to tell the jury  
7 that there was a pattern of predatory violent crime  
8 prior to July 2021 that conveyed information to  
9 Seven Courts about whether predatory violent crime  
10 might occur in July 2021 such that that prediction  
11 would influence the kinds of security measures that  
12 would be reasonable in July 2021?

13 MR. MELCHER: Objection; form.

14 A. I'm sorry, that question was so long, I  
15 lost it.

16 Q. Let me try it again.

17 Do you plan to tell the jury that the  
18 pattern of predatory violent crime prior to  
19 July 2021 conveyed information to TPI about the risk  
20 or chance of predatory violent crime in July 2021  
21 such that TPI could use that information to evaluate  
22 what kinds of security measures to deploy in  
23 July 2021?

24 MR. MELCHER: Objection; form.

25 A. Again, you said the same thing. I'm not

1 sure what you're asking. I mean, I have already  
2 answered the question.

3 You have one act of predatory violence in  
4 12 months prior. That doesn't justify an armed  
5 dedicated security presence. They had a periodic  
6 security presence that was armed. That's fine.  
7 That's it.

8 Q. Yeah. All right. We got on a detour.

9 So what you did here when you wanted to  
10 evaluate the violent crime at the subject property  
11 in the Perez case in Texas, you looked at -- let's  
12 start with the incidents at that property. You  
13 have aggravated -- actually, let me get you the date  
14 on this one too.

15 The date of the murder was December 9,  
16 2005. And you looked back nearly two years to  
17 January of 2004 for an aggravated sexual assault and  
18 aggravated robbery, a year and a half earlier for a  
19 strong arm robbery, a year and a half-ish earlier  
20 for another strong arm robbery, an aggravated  
21 robbery and aggravated assault. At the bottom,  
22 you've got another aggravated robbery -- wait a  
23 minute. Actually, are these -- hold on. That's  
24 actually going back. It's that aggravated assault,  
25 that last one, that's what you looked at.

1           So you looked, I guess, from nearly two  
2       years up to about six months or five months prior  
3       and you had some strong arm robberies and some  
4       aggravated assault including a sexual assault one,  
5       right?

6           A.     Right. So a shorter reference period and  
7       I was a plaintiff expert in that case.

8           Q.     And then at the bottom of the paragraph --  
9       or, excuse me, the bottom of the page, that last  
10      paragraph, you write, In terms of proximate  
11      violence, the following robberies, aggravated  
12      robberies, aggravated assault, and gun crimes  
13      reportedly occur at apartment complexes within one  
14      mile of the subject property within 23 months of the  
15      subject incident.

16                Do you see that? It's the very last  
17      paragraph.

18           A.     Correct. And the previous paragraph is  
19      talking about five occurred at the property itself.

20           Q.     Yes. Over about two years.

21           A.     Less than two years.

22           Q.     Just less than two years.

23           A.     And you're ignoring -- you're leaving out  
24      all kinds of rich data in terms of the location,  
25      time of occurrence, day of week.

1 Q. I'm trying to -- yeah. We can do all of  
2 that. The point I'm making is that you -- well, you  
3 get the point I'm making.

4 A. You're cherry-picking.

5 Q. So you then expand your lens and you look  
6 at properties within a mile -- every apartment  
7 complex within a mile and you found an aggravated  
8 robbery; another aggravated robbery; another  
9 aggravated robbery; another aggravated robbery;  
10 another aggravated robbery; a strong arm robbery; a  
11 gun drug offense which was just two men selling  
12 drugs, one of them threw a gun away; aggravated  
13 robbery.

14 And it goes on for a couple of pages  
15 because you actually in the Perez case when you were  
16 a plaintiffs' expert, went out and looked to see if  
17 the neighborhood around the subject apartment  
18 complex was dangerous.

19 MR. MELCHER: Objection; form.

20 (Simultaneous speaking.)

21 A. Perhaps you're not aware, Mr. Block, that  
22 in the state of Texas, we have a watershed premises  
23 case called the Timberwalk case that requires the  
24 proximity dimension of foreseeability to be  
25 assessed, which is precisely what I was doing in

1 that case.

2 And the second answer is that in that  
3 particular case, as I have told you twice already, I  
4 was asked to give a foreseeability opinion in that  
5 case. I was not asked to do that here.

6 Q. No, you were told to call it something  
7 else in this case.

8 MR. MELCHER: Objection; form.

9 Q. So --

10 A. I'm not sure what that means, but if  
11 you're implying that there's some sort of conspiracy  
12 between me and Mr. Melcher, I think that you need to  
13 reconsider that thoroughly.

14 MR. MELCHER: Thank you.

15 Q. I don't think it's a conspiracy in some --  
16 I don't know what. I wouldn't call it a conspiracy;  
17 I would just call --

18 (Simultaneous speaking.)

19 MR. MELCHER: Aaron, you're getting  
20 way out of line here. You're getting way out of  
21 line.

22 MR. BLOCK: Thank you, Jeff.

23 MR. MELCHER: This is a  
24 question-and-answer session, not a throw insults at  
25 us exercise.

1 MR. BLOCK: It's not an insult.

2 MR. MELCHER: We both just took it  
3 that way.

4 MR. BLOCK: Well, you know, I  
5 genuinely believe you changed the label from  
6 foreseeability to something else. And maybe --

7 (Simultaneous speaking.)

8 MR. MELCHER: I changed the label?  
9 Okay. Well, since we're on the record, please supply  
10 me with your evidence to suggest that or otherwise  
11 I'm going to take you before the Court. That is  
12 implying that I have suborn perjury.

13 Would you like to rephrase now?

14 MR. BLOCK: No, I don't think it's  
15 perjury.

16 MR. MELCHER: Okay.

17 MR. BLOCK: I don't think it's  
18 perjury.

19 MR. MELCHER: All right. We're about  
20 two seconds from going off the record and calling the  
21 Court.

22 Would you like to rephrase your  
23 question?

24 MR. BLOCK: Yes.

25 MR. MELCHER: All right. Thank you.

1 MR. BLOCK: Yeah. I'll rephrase my  
2 question. And I'll tell you exactly what I'm getting  
3 at off the record if you would like to know.

4 MR. MELCHER: No. On the record,  
5 please --

6 MR. BLOCK: Yeah.

7 MR. MELCHER: We are on the record  
8 here. If you would like to tell us the thrust of  
9 your suggestion here on the record, that will be  
10 fine.

11 MR. BLOCK: Sure.

12 MR. MELCHER: Because I can tell you  
13 we asked him to evaluate your allegations. We did  
14 not give him marching orders. Perhaps you need to  
15 revisit your vague allegations that are completely  
16 unfounded in this case.

17 MR. BLOCK: In the spirit of being  
18 transparent --

19 MR. MELCHER: That would be nice.

20 MR. BLOCK: -- I hear Dr. Jacobs  
21 saying emphatically that he is not giving a  
22 foreseeability opinion. Okay. So that's the first  
23 premise. I don't think anyone can deny that he said  
24 that many times today.

25 But what I see in Dr. Jacobs' report

1 and what I hear in his answers today is that he is  
2 using retrospective data on crime at Seven Courts to  
3 make a prediction about future crime against which to  
4 measure the reasonableness of security measures.

5 THE COURT: Wrong.

6 MR. BLOCK: And that to me -- hold on.  
7 Let me just finish my thought, please.

8 That, to me, sounds a lot like  
9 foreseeability, just not calling it foreseeability.  
10 I see that -- hold on, I'm almost done. I'm going to  
11 get to your part of the story now. Okay.

12 I hear Dr. Jacobs denying that. I see  
13 him shaking his head. I hear you denying it. And we  
14 can just agree to disagree.

15 I'm just telling you I'm not accusing  
16 you of anything other than, you know, lawyers like to  
17 repackage evidence to -- not in a bad way, but that's  
18 just what lawyers do. And so I just -- that's what  
19 I'm detecting. If I'm wrong, I'm wrong. But I'm  
20 just being transparent that that's what I'm  
21 detecting. But that's not a question. There is just  
22 now a long, you know, soliloquy from me.

23 A. Here is the problem with your soliloquy.

24 Q. I'll ask the question --

25 MR. MELCHER: Hang on, let the



1 witness --

2 MR. BLOCK: No, let me hear the  
3 problem. I was actually done.

4 A. The problem with your soliloquy is that it  
5 ignores the fact that what could I offer -- how  
6 could I offer an opinion on the adequacy of the  
7 security posture at the premises without analyzing  
8 the prior crime data. If I did that, you would put  
9 some kind of motion to exclude me.

10 Q. Yeah.

11 A. So how can I -- that's exactly what I'm  
12 doing. I'm assessing the adequacy of the security  
13 relative to the crime pattern. If I didn't do that,  
14 my opinion would not be empirically justified.

15 Q. I understand what you're saying. Yes. It  
16 would be -- yes, if you just showed up and said I  
17 have no idea what this place is even like and I had  
18 an opinion about what security measures they have,  
19 yeah, that wouldn't make any sense. I know that.

20 So I'm not -- anyway, I think we  
21 understand each other on this point.

22 A. Speak for yourself.

23 Q. So I actually think that was the useful  
24 exchange even though not good forum led by me, not  
25 you.

1           So -- all right. If we go back to  
2     Exhibit 5, the Perez affidavit, I want to -- and I  
3     heard you before we went off on that detour that  
4     your opinion in the Perez case was in Texas and so  
5     it was informed by Texas law. Okay.

6           But I think you were also telling me that  
7     you were giving in the Perez case just like in this  
8     case a scientific opinion, not a legal opinion,  
9     right?

10          A. Correct. But obviously I have to conform  
11     to Texas state law.

12          Q. So on page 9 -- excuse me, page 8 of your  
13     Perez affidavit, you write, Defendants' failure to  
14     take reasonable measures to prevent foreseeable harm  
15     is evidence of gross indifference if not callous  
16     disregard for the security of 500 Crosstimbers'  
17     tenants and invitees.

18                 And then you go on to explain all of the  
19     13 or 14 bullet points that in your view, reflect  
20     deliberate indifference and callous disregard for  
21     tenant safety in the Perez case.

22                 So the first thing that you said in the  
23     Perez case was defendants had a broken security gate  
24     and did not fix it.

25                 Okay. Do you still believe that having a

1 broken security gate and not fixing it is evidence  
2 of callous discard for tenant safety?

3 A. You conveniently left off the sentence  
4 right after that where it says, quote, Defendant's  
5 policies and procedures establish common ground  
6 maintenance is the highest of priorities.

7 And, in fact, they specifically -- I  
8 believe the deposition testimony was when the gate  
9 is broken, you fix it. That was specifically in the  
10 record. They also had a security officer that they  
11 used to deploy and then fired who would have been  
12 posted at the broken gate at the time of the  
13 incident at the time the assailants went through the  
14 open gate. So you're ignoring those two pieces of  
15 data, but other than that, you're correct.

16 Q. I think what might matter in terms of data  
17 that's absent is the apartment complex in the Perez  
18 case had a policy manual for how to keep the grounds  
19 safe, and TPI does not have one for Seven Courts,  
20 does it?

21 A. As I said earlier, they did not have a  
22 formal written plan, but obviously the data points  
23 listed in my report are functionally equivalent or  
24 analogous to a plan.

25 Q. Okay. So -- okay. So you also said that

1 it showed callous disregard for tenant safety when  
2 defendants' failure to have someone monitor the  
3 broken gate contrary to the policies, right?

4 A. Right, if their policy said to do that and  
5 they didn't do it, then they're acting contrary to  
6 their policies.

7 Q. And so if you just don't have any policies  
8 whatsoever about how to keep the property safe,  
9 there's nothing for you to violate. But that makes  
10 it okay?

11 MR. MELCHER: Objection; form.

12 A. I didn't say that. Are you testifying?

13 Q. Well, I'm trying to understand the logic  
14 of your opinion because -- you get what I'm saying.

15 Okay. You also in this opinion -- it must  
16 be the case that having a gate would have mattered  
17 or else you wouldn't say that having a broken gate  
18 exhibits callous disregard for tenant safety.

19 A. Right. Because the courtesy officer said  
20 that he would have been posted at the gate had he  
21 not been let go prior to the incident.

22 Q. Well, hold on. We'll get to that. That's  
23 a different bullet. You actually just wrote, bullet  
24 one, Defendants had a broken security gate and did  
25 not fix it.

1 If a gate is as meaningless for crime  
2 prevention as you've been telling me all day, why  
3 would it show callous disregard to have a broken  
4 gate?

5 A. Because it was in their policies not to  
6 have a broken, or if it was broken, to post somebody  
7 at the gate until it was fixed.

8 Q. And TPI doesn't have that problem because  
9 they just have no policies at all, right?

10 MR. MELCHER: Objection; form, asked  
11 and answered.

12 A. It's not a gated property.

13 Q. Right.

14 All right. So bullet 3 is, Defendants  
15 fired their courtesy officer and did not replace  
16 him, which was a reduction in their own standard of  
17 care.

18 That's what you wrote?

19 A. Correct.

20 Q. Okay. I'll grant you it wasn't as bad as  
21 firing Mr. Hickey; it was just not hiring him in a  
22 robust way because they wanted to spend money on  
23 security cameras that were inoperative.

24 Do you think that that shows callous  
25 disregard for tenant safety at Seven Courts?

1 MR. MELCHER: Objection; form.

2 A. No.

3 Q. Number 4, Defendants failed to collect any  
4 crime data for the property even though the property  
5 manager went to Houston Police Department PIP  
6 meetings at one point had a courtesy officer who  
7 could have obtained the data for free.

8 So it was your testimony in the Perez case  
9 that when a property manager or an apartment complex  
10 manager doesn't get crime data from the police  
11 department, that is callous disregard for tenant  
12 safety, right?

13 A. I don't think that's what my affidavit  
14 says. In fact, it doesn't say that at all.

15 Q. Well, it says they failed to collect any  
16 crime data for the property.

17 A. Right. After going to those PIP meetings  
18 which instruct them to do that.

19 Q. It says even though they went to the PIP  
20 meetings.

21 A. Right. And at the PIP meetings, there was  
22 an instruction to get the data, and I believe the  
23 courtesy officer testified that he could have gotten  
24 the data for them for free. So as I said earlier in  
25 the deposition, I'm all for collecting crime data.

1 Whether it's required or not, is up to the  
2 jurisdiction. I'm all for collecting it.

3 Q. I actually take your point to be that if  
4 you can get free crime data, that's what you ought  
5 to do, because if not, you're just operating in the  
6 dark and you're exhibiting callous disregard for  
7 tenant safety.

8 A. The last part is not what I agree with,  
9 but I do agree it's good to collect crime data. I  
10 have said that many times today. As a  
11 criminologist, I'm all for that.

12 Q. Do you know what it costs to get crime  
13 data from the Atlanta Police Department?

14 A. Depends what you're asking.

15 Q. Do you know how to get the police reports  
16 that you base your opinions on?

17 A. Typically through an open records request,  
18 although some departments require something more.

19 Q. So assume with me that what you have to do  
20 to get crime data for a property is send an email,  
21 and if it takes more than 30 minutes, you pay a very  
22 low hourly rate for them to redact people's phone  
23 numbers and Social Security numbers from the report.  
24 So it's kind of a de minimis cost.

25 Assume with me that that's how you can get

1 crime reports. Okay. Do you think that failing to  
2 do that by TPI exhibits callous disregard like it  
3 did of the tenant or the landowner in the Perez  
4 case?

5 A. Can you...

6 Q. Do you want me to make it bigger?

7 A. Now I can't see what I was trying to read.

8 Q. Do you want me to make it smaller again?

9 A. Right. So, again, you're taking  
10 individual bullet points and saying this one alone  
11 means that they were callous and indifferent when  
12 clearly there's 13, 14, 15, whatever, I can't see  
13 the second page, but multiple indicators of other  
14 failures of this property to do what it said it was  
15 going to do.

16 So, you know, you're cherry-picking one  
17 item and saying that's callous indifference, and  
18 that's not what the affidavit says.

19 Q. And we'll just -- I'm -- I'm planning to  
20 go through all of them, but I need to go one by one  
21 because there are 14.

22 A. Right. But the 14 in totality that  
23 explain the indifference, which is listed in the  
24 previous paragraph.

25 Q. I see. I see.



1 All right. Number 5, Defendants failed to  
2 implement or attempt to implement any preventative  
3 patrol on the premises.

4 What did you mean there?

5 A. They had a courtesy officer who patrolled  
6 the property periodically; they fired him. This is  
7 despite the leasing agent almost being raped, I  
8 think, within that two-year reference period inside  
9 the leasing office.

10 Q. Ms. Wynn was -- not sexually but Ms. Wynn  
11 was assaulted once or twice in the leasing office  
12 within the two-year period prior to this incident.

13 A. Right.

14 Q. Did you know that?

15 A. She was punched in the mouth after she  
16 tried to kick someone out of the property, and yet  
17 your contention is that she was a drug dealer and  
18 criminal and running a nuisance property. That  
19 doesn't make any sense. You're kicking people out  
20 and getting assaulted for it and she's running a  
21 nuisance property?

22 Q. I think you're maybe overstating some of  
23 what we're saying. I think we don't need to debate  
24 that. I don't need to get your opinions on Ms. Wynn  
25 and what the evidence shows. That's really not for

1 you.

2 A. You just asked me.

3 MR. MELCHER: You just asked him that,  
4 Aaron.

5 Q. On that?

6 A. Yeah, you asked me specifically about  
7 Ms. Wynn and how horrible of a manager she was and  
8 how she's running a criminal syndicate at Seven  
9 Courts and that's --

10 Q. Slightly different question. I asked  
11 whether you considered the allegations against her,  
12 how you factored that into your analysis. We don't  
13 need to debate, you know, questions I asked you four  
14 or five hours ago unless you just really want to.

15 Number 6, Defendants failed to generate  
16 any internal reports about crime on its property.

17 So that TPI did. I will spot them that.  
18 Doesn't sound like you reviewed those unless they  
19 were incidentally attached to a deposition, but they  
20 exist.

21 Defendants provided Ms. Perez misleading  
22 information when she asked whether the property was  
23 safe.

24 I don't need to ask you about the  
25 communications between Ms. Wynn and the Diaz family.

1 That's not really for you.

2 Ms. Nunez, the property manager, testified  
3 it was her responsibility to warn tenants about  
4 crime and management requires her to do it, yet she  
5 failed to do this.

6 Here is my question on that one: Have you  
7 seen any evidence in this case that TPI, as a matter  
8 of corporate policy, required Ms. Wynn to warn  
9 tenants about crime at Seven Courts?

10 A. I have not seen that specific policy, no.

11 Q. Then you say number 9, Ms. Nunez, the  
12 property manager, said that had she known about all  
13 the prior crime, she would have requested additional  
14 security. And then you say she could have gotten  
15 the data. I'm not sure that maps here or not.

16 Number 10, There were six Part I felonies  
17 in the six months after defendants purchased the  
18 property and took over its management.

19 I'm not exactly sure when they took over  
20 the property and how that lines up with your  
21 temporal analysis in this case.

22 So number 11, Defendants failed to have  
23 any crime prevention survey done at the property,  
24 which the Houston Police Department could have  
25 conducted for free.

1 Are you aware of any evidence that TPI  
2 requested a crime prevention survey at Seven Courts?

3 A. No. But that was being provided by both  
4 Holt and Hickey during the entirety of their  
5 deployment there. So they wouldn't have to request  
6 one.

7 Q. You don't think the police might have  
8 broader, richer data than just Mr. Holt and  
9 Mr. Hickey?

10 A. They're boots on the ground. They know  
11 that property better than anybody and certainly  
12 better than the APD does.

13 Q. Okay. So we should actually defer to  
14 Mr. Holt and Mr. Hickey for what crime was really  
15 like at Seven Courts?

16 MR. MELCHER: Objection; form.

17 A. In addition to the police reports that  
18 were part of the file, yes, and in addition to the  
19 other deponents who provided corroborating  
20 information or the lack thereof on some of  
21 Mr. Holt's observations.

22 Q. Defendants failed to do any background  
23 check on their tenants, and the HPD offense reports  
24 establish at least one career criminal living on the  
25 property.

1 And you have testified that you believe  
2 that Seven Courts actually did -- or TPI actually  
3 performed background checks on Seven Courts'  
4 tenants. And, you know, that's just what you  
5 believe. You know, I have to tell you we have seen  
6 hide nor hair of that, but you and I can't resolve  
7 that today.

8 MR. MELCHER: Is that a question?

9 Q. Number 13 --

10 A. That's not what I believe; it's what  
11 Ms. Wynn informed me and it's what HUD requires.  
12 So, you know, I don't know what else to say.

13 Q. But don't you think that if Seven Courts  
14 were actually doing that, when we asked for their  
15 security documents, they would (audio distortion)  
16 send them to us?

17 A. I suppose that would require them to give  
18 you every single lease that was taken at the  
19 property, and then within those leases, every single  
20 background check that was performed on every single  
21 would-be tenant. I can't speak for them, but that's  
22 what it would require, I suppose.

23 Q. There's not even one for our clients where  
24 we do have the tenant file.

25 But you didn't consider that; you just

1 took it at face value that they did it.

2 So number 13 --

3 MR. MELCHER: Wait. Wait. Wait.

4 Q. -- Defendants failed --

5 MR. MELCHER: Is that a question?

6 MR. BLOCK: Well, sure, I can put a  
7 question mark on it.

8 Q. You didn't look at our tenant file -- the  
9 tenant file for the Diaz family to confirm whether  
10 there was a background check in there, did you?

11 A. I reviewed all the available discovery  
12 that was provided to me.

13 Q. I didn't see in your list the Diaz  
14 family's tenant file, so it looks like you didn't  
15 consider it.

16 A. I would not necessarily agree with that.  
17 Like I said, I looked at all the available discovery  
18 that was provided to me.

19 Q. And if we wanted to know what is provided  
20 to you, we would go back to your list, which doesn't  
21 include the Diaz family tenant file.

22 A. Well, unless it was listed under  
23 defendant's responses to -- TPI's responses to  
24 plaintiffs' second set of requests for production of  
25 documents. I'm assuming it would be embedded in

1 either that one or the first set of discovery.

2 Q. Well, yeah, but the discovery includes --  
3 actually, you know what we can do is if you want --  
4 if you're going to make me do this, we can actually  
5 go into the ShareFile and see if it's in there.

6 TPI's produced, as Jeff knows, thousands  
7 of documents. So you just -- you don't have those;  
8 you just don't. Other than ones that, you know,  
9 were appended to something that you were given.

10 MR. MELCHER: Again, I don't think  
11 that's a question. I just think that's a soliloquy  
12 but --

13 MR. BLOCK: Sure. You are right.

14 Q. Number 13, Defendants failed to reach out  
15 to any nearby complexes, which its policies and  
16 procedures say it should do. Reaching out could  
17 include identifying crime data and getting help with  
18 a shared patrol.

19 So you don't have any evidence that TPI  
20 reached out to nearby complexes for their crime  
21 data, do you?

22 A. It wasn't in any of their policies and  
23 procedures or testimony that they were required to  
24 do that. It was in the Crosstimbers case.

25 Q. Yeah.

1           So here again, TPI doesn't have to do  
2 something to detect crime because they didn't put it  
3 into a policy, right?

4           A. I guess that's your position. It wouldn't  
5 be mine, but if that's what you say.

6           Q. Number 14, Defendants failed to develop or  
7 attempt to develop a community crime watch  
8 organization among their tenants which could have  
9 improved levels of informal social control and had a  
10 meaningful crime prevention effect.

11           Do you have any evidence that TPI  
12 attempted to develop a community crime watch  
13 organization among their tenants?

14           A. No.

15           Q. Do you think that's a problem?

16           A. I'm generally supportive of that kind of  
17 measure. Whether it's a problem, I don't know how  
18 it relates to the facts of this case, but I'm  
19 generally supportive of that if the crime pattern  
20 justifies it.

21           Q. If you look at the very last paragraph,  
22 you write, Access is the lifeblood of predatory  
23 offending. Cut off the access and you generally cut  
24 off the opportunity for crime.

25           Was that a true statement of your opinions



1 when you testified to that effect in 2009?

2 A. Generally speaking, that is true.

3 Generally speaking.

4 Q. It's still true?

5 A. Are you talking about this particular case  
6 or in all cases? I mean, the question is --

7 Q. I'm --

8 A. Yeah, if you can anticipate that a  
9 particular act of violence is going to happen and  
10 you have opportunity to cut off the access and you  
11 don't, then that's probably going to be a problem.  
12 But if you don't know and the crime data doesn't  
13 suggest to you that access control is an issue, then  
14 it's not.

15 In fact, I don't believe that statement  
16 that you just read was in this report. That was  
17 part of a different plaintiff case where the  
18 offender walked in through an unlocked door and  
19 roamed around the building for two to three hours  
20 before attacking a lady inside at a time when that  
21 building was supposed to be locked.

22 So, yes, access is the lifeblood of  
23 predatory offending, especially when the door is  
24 supposed to be locked and it isn't.

25 Q. That language I read is coming straight

1 out of your affidavit from the Perez case. I don't  
2 know about this other case you're talking about  
3 where the defendant came in -- or the offender was  
4 wandering around in an unlocked building.

5 A. Can you show me where it says that in this  
6 affidavit?

7 Q. Yeah, I'll make it bigger. It says,  
8 Access is the lifeblood --

9 A. Okay.

10 Q. -- of predatory offending. Cut off the  
11 access and you generally cut off the opportunity for  
12 crime.

13 A. Right.

14 Q. That last paragraph.

15 A. Again, it refers to the firing of the  
16 courtesy officer who would have been positioned at  
17 the gate exactly where the crime happened and the  
18 courtesy officer saying that that was a dumb move.

19 Q. Let me ask you, Dr. Jacobs, in your -- I'm  
20 going to go back to your report, Exhibit 4. You  
21 have in paragraph 30 a partial list of papers, and I  
22 counted 38 papers. And you kind of briefly  
23 referenced functional limits of deterrence.

24 Really your opinion about these papers  
25 seems to be that they would be useful for the jury

1 to understand.

2 What do you intend to tell the jury about  
3 these 38 papers?

4 A. Well, again, that's a partial list. What  
5 I would do is educate them on the functional limits  
6 of crime prevention and the theoretical reasons  
7 behind those limits to help them understand why,  
8 despite the presence of, for example, lighting or  
9 gates or cameras or uniform law enforcement  
10 presence, why violence still happens or still can  
11 happen.

12 And so those studies really essentially  
13 catalogue the reasons why that can still happen, and  
14 the reasons are defiance, imprudence, and  
15 displacement.

16 And so it's merely to educate the triers  
17 of fact in an area of knowledge that is beyond their  
18 normal expertise, which is exactly what an expert is  
19 supposed to be doing.

20 And in this case, it helps them understand  
21 why violent crime can still happen despite all these  
22 security measures. And I will walk them through the  
23 overall findings of these various studies to help  
24 them explain -- particularly the uniform law  
25 enforcement hot spot studies where you have police

1 in a very small geographic area intensely over a  
2 several week or several month long period and you do  
3 a randomized control trial, which is the gold  
4 standard in science, and you compare violent crime  
5 rates at hot spots with police versus at hot spots  
6 without police. And there's either no statistically  
7 significant reduction in the experimental group  
8 relative to the control group or there is a  
9 reduction but it's minor or modest at best.

10 Like, most jurors would wonder, like, why  
11 in the world is that true. Like, you have got cops  
12 at a small geographic location such as an apartment  
13 complex or a convenience store or a strip center,  
14 and you have got no statistically significant  
15 reduction in violence or maybe a small reduction  
16 that's modest at best. Like, what in the world  
17 would explain that. And the explanations based on  
18 the peer-reviewed science are defiance, imprudence,  
19 and displacement.

20 And I would walk them through those  
21 findings and explain how they contextualize the lack  
22 of a reduction that you see in violence despite the  
23 presence of even sworn law enforcement officers.

24 Q. So I interpret what you're saying to mean  
25 that insofar as scientific studies can measure it,

1 armed guards, whether they're police officers or  
2 private security guards, don't reduce crime;  
3 lighting doesn't reduce crime; gating and fences  
4 don't reduce crime.

5 So is that really in a nutshell what  
6 you're saying about what the literature shows?

7 A. No, not at all. You're saying crime; I'm  
8 saying violent crime. There's a big distinction.

9 Q. Yeah, I'm sorry. Let me be specific about  
10 this.

11 What I understand you to be saying is that  
12 based on your view of the scientific literature,  
13 armed guards, policemen or private security  
14 officers, good lighting, gates and fences do not  
15 reduce violent crime.

16 A. What I'll say is I what I said in my  
17 report and what I said earlier, that the  
18 lighting/violence relationship is null. The  
19 camera/violence relationship is negligible. The law  
20 enforcement patrol/hot spot violence reduction  
21 relationship, depending on the study you look, there  
22 could be some reduction. Sometimes it's  
23 statistically significant; sometimes it's not. But  
24 even when you do get a statistically significant  
25 reduction of violence, the reduction tends to be

1 minor or moderate.

2 So like I said, I'm not against these  
3 measures; I'm just trying to tell you and the jury  
4 what the science says about all this stuff and, you  
5 know, does the treatment cure the patient. Does the  
6 treatment cure the disease. And to what extent does  
7 it treat and cure the disease. And that's all I'm  
8 doing is educating them on what these studies say.

9 The disease is violence, the treatment is  
10 security, nothing more, nothing less.

11 MR. MELCHER: Can we take a short  
12 break.

13 MR. BLOCK: Yes.

14 (Recess 2:49 p.m. to 2:58 p.m.)

15 Q. Dr. Jacobs, I want to pick up where we  
16 left off. As a foundational point, what I  
17 understand you to be saying, correct me if I'm  
18 wrong, is that when you look at the scientific  
19 literature, the effect of security guards, lighting,  
20 fencing on reducing violent crime is, like, slim to  
21 none.

22 Is that basically the gist of what you're  
23 saying?

24 A. Well, it would depend on -- it would  
25 depend on the fact pattern like -- if you have more

1 information about the crime in question, uniform  
2 police presence can actually be more effective than  
3 if you don't have the information. It's called  
4 intelligence-based policing.

5 But in a case like this, you don't have  
6 specific intelligence on the particular criminal, so  
7 it would have defaulted back to what the typical  
8 studies say about it in terms of the reduction,  
9 which is not all that remarkable.

10 And then the other stuff, lighting,  
11 gating, fencing, again, there's nothing wrong with  
12 it, you know. I'm not against it per se. But, you  
13 know, does it more likely than not reduce the  
14 probability of an armed robbery and home invasion, I  
15 don't think anyone can say that unless they have  
16 more specific information about the fact pattern.

17 Q. Part of what I'm wondering and you can  
18 explain for me is why does everybody do it. And  
19 there's obviously a ton of money that goes into  
20 designing crime prevention plans like you have been  
21 affiliated with that includes things like security  
22 guards and cameras and lighting and fencing and  
23 gates and so on. I mean, it is the case. You can  
24 look out and drive around and see all that stuff.

25 And so it's not unheard of, but it's

1 unusual for people -- many people to spend lots of  
2 money on, you know, theatre or charades. So help me  
3 understand, like, practically speaking why is it  
4 that there's a whole industry that sells that  
5 service to people and has consumers for it if it  
6 doesn't do any good in reducing violent crime.

7 A. Fear is very effective. That's the first  
8 answer. Second answer is for some offenders in some  
9 circumstances, it does work. A lot of those things  
10 are undetectable because deterrence is invisible, so  
11 you can't measure something that didn't happen.

12 But having said that, again, when you have  
13 the best available comparison studies, the reduction  
14 and violence, for example, with these various  
15 measures is not great, but again, doesn't mean you  
16 don't do it. As some offenders in some  
17 circumstances, it will work. But, you know, a lot  
18 of offenders simply don't care, and that's reflected  
19 by the data.

20 Q. Can you tell me then if we look at your  
21 list of literature -- and I can actually put -- I  
22 think I can put the folder up on the screen. Maybe  
23 not. So let's try without it.

24 Let's just focus on security guards.  
25 Which of the papers in your file that you think



1 demonstrate that security guards do not have an  
2 effect on reducing crime?

3 A. Well, it would be law enforcement more  
4 generally in terms of uniform crime prevention  
5 presence, not security per se although -- so it  
6 would be more -- the hot spot studies are almost  
7 always done on law enforcement, which is a higher  
8 standard, which is I think even more probative of  
9 these issues because more often than not, you're  
10 talking about a sworn police presence as opposed to  
11 just a random mall cop, which is a much higher  
12 standard of police presence. And yet even with a  
13 sworn police presence, these comparison studies are  
14 unremarkable at best.

15 Q. So which name should I look at in papers?  
16 What are the authors or the names of the papers that  
17 in your view demonstrate that even armed -- excuse  
18 me, even uniformed police officer presence does not  
19 deter violent crime or reduce the risk of violent  
20 crime?

21 A. Again, some of the studies will show a  
22 statistically significant reduction in violence.  
23 What that doesn't account for is the nature of the  
24 reduction. Statistical significance means it's more  
25 likely than not that we got this reduction because

1 of the cops, not some other measure or not some  
2 other chance factor. That's what statistical  
3 significance means.

4 Once you get statistical significant, then  
5 you see what the reduction is. In some studies,  
6 like the Sherman study, I think it was 6 to 13  
7 percent was the reduction. The Groff study, I think  
8 it was higher but it depended on the crime.

9 The studies you want to look at are  
10 Sherman, Groff. Some of these are not in the report  
11 but they are in the ShareFile link. The Telep  
12 study, T-e-l-e-p.

13 Q. I'm sorry, which one was that?

14 A. Telep.

15 Q. Which was it?

16 A. T-e-l-e-p.

17 Q. I saw that.

18 A. The Groff study. The Rosenfeld study.  
19 The Taylor study. The Ratcliffe study.

20 And again, some of these studies do show a  
21 statistically significant reduction in violence with  
22 law enforcement presence, but that doesn't tell you  
23 the size of the reduction.

24 And if the size of reduction is, for  
25 example, 20 to 30 percent, that means 70 to

1 80 percent of the violence remains relative to the  
2 control group, which is not more likely than not.

3 Q. It matters a great deal for the 20 or  
4 30 percent of victims who weren't victimized, right?

5 A. Absolutely. And so, yeah, at a city  
6 level, you know, at 20 percent reduction, it -- you  
7 know, at that level of aggregation is genuine and  
8 important. But at a specific property or set of  
9 properties, it's less hard -- it's more difficult to  
10 make the argument that this presence would have  
11 prevented a crime like this.

12 Q. And is that because you're measuring over  
13 a much smaller area and it's hard to get a really  
14 good -- it's not a controlled trial, it's even hard  
15 to find a natural comp, is that -- these are some of  
16 the limitations?

17 A. No. No. No. What I'm saying is the hot  
18 spots -- the randomized control trials do that for  
19 you. They typically, you know, look at 20, 25  
20 different hot spots throughout a city, which are  
21 small geographic areas like an apartment complex or  
22 a half a block or something like that. So you do  
23 get the data.

24 What I'm saying is if you can apply this  
25 on a city level and get a 10 percent reduction, if

1 Atlanta has got 2,000 violent crimes in a year,  
2 10 percent reduction is 200. That's significant for  
3 a city.

4 But for a property where you might have,  
5 let's say, four violent crimes in a year or three, a  
6 10 percent reduction is not even one crime reduced.

7 Q. Small numbers?

8 A. Right.

9 Q. Yeah. It's very difficult to measure  
10 small numbers -- changes in small numbers, I should  
11 say. It's easy to measure small numbers; it's  
12 harder to measure changes in them.

13 MR. BLOCK: Okay. All right. Those  
14 are the questions I have for your, Dr. Jacobs. Thank  
15 you.

16 THE WITNESS: All right.

17 MR. MELCHER: We're going to read and  
18 sign.

19 (Deposition concluded at 3:06 p.m.)  
20  
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WITNESS: BRUCE JACOBS

PAGE NO.	LINE NO.	CHANGE	REASON FOR CHANGE
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[illegible]

\_\_\_\_\_  
(Signature of the Witness)

THE STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me by the said  
witness, BRUCE JACOBS, on this the \_\_\_\_\_ day of  
\_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public in and for the  
State of \_\_\_\_\_  
County of \_\_\_\_\_

My commission expires: \_\_\_\_\_

1 STATE OF TEXAS )

2 COUNTY OF DALLAS )

3 I, Michelle L. Munroe, Certified Shorthand  
4 Reporter in and for the State of Texas, certify that  
5 the foregoing deposition of BRUCE JACOBS was reported  
6 stenographically by me at the time and place  
7 indicated, said witness having been placed under oath  
8 by me, and that the deposition is a true record of  
9 the testimony given by the witness;

10 That the amount of time used by each party at  
11 the deposition is as follows:

Mr. Block - 5 hours, 9 minutes

12  
13 I further certify that I am neither counsel for  
14 nor related to any party in this cause and am not  
15 financially interested in its outcome.

16 Given under my hand on this the 25th day  
17 of August, 2022.

18  
19   
20  
21

22 Michelle L. Munroe, CSR No. 6011  
Commission expires 1-31-24  
Firm Registration #571  
23 VERITEXT LEGAL SOLUTIONS  
300 Throckmorton Street, Suite 1600  
24 Fort Worth, Texas 76102  
817.336.3042 telephone  
25

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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